

AGENDA
Mansfield Conservation Commission
Wednesday, November 16, 2011
Audrey P. Beck Building
CONFERENCE ROOM B
7:30 PM

- 1. Call to Order**
- 2. Roll Call**
- 3. Opportunity for Public Comment**
- 4. Minutes**
 - a. October 19, 2011
- 5. New Business**
 - a. IWA Referrals: W1488 - DEEP Legislation: Statutory Wetland Regulation Revision
 - b. Town Manager Matthew W. Hart & Director of Planning and Development Linda Painter
 - c. Other
- 6. Continuing Business**
 - a. W1485 - Bell - 552 Bassetts Bridge Rd
 - b. Protecting Dark Skies in the Last Green Valley
 - c. Water Source Study for the Four Corners Area/Environmental Impact Evaluation (EIE)
 - d. Swan Lake Discharge Mirror Lake Dredging and other UConn Drainage Issues
 - e. UConn Agronomy Farm Irrigation Project
 - f. Eagleville Brook Impervious Surface TMDL Project
 - g. UConn Hazardous Waste Transfer Station
 - h. Ponde Place Student Housing Project
 - i. CL&P "Interstate Reliability Project"
 - j. Other
- 7. Communications**
 - a. Minutes
 - ☐ Open Space (10/18/11) ☐ PZC (10/17/11 & 11/7/11) ☐ IWA (11/7/11)
 - b. Inland Wetlands Agent Monthly Activity Report
 - c. Fall 2011 The Habitat
 - d. Chaplin Regulation Amendment Notification
 - e. Other
- 8. Other**
- 9. Future Agendas**
- 10. Adjournment**

Town of Mansfield
CONSERVATION COMMISSION
Meeting of 19 October 2011
Conference B, Audrey P. Beck Building
(draft) MINUTES

Members present: Joan Buck (Alt.), Peter Drzewiecki (from 8:05p), Neil Facchinetti, Quentin Kessel, Scott Lehmann. *Members absent:* Aline Booth (Alt.), Robert Dahn, John Silander, Frank Trainor. *Others present:* William Shakalis.

1. The meeting was **called to order** at 7:33p by Chair Quentin Kessel.
2. The draft **minutes of the 21 September 2011 meeting**, as revised on 9/23, were approved.
3. **Porter Meadow.** The Town would like to remove trees and brush from Porter Meadow that are growing up to obscure the view of Mansfield Hollow Reservoir from Rte 195. The Commission unanimously (1) agreed that the proposed removal of trees and brush from Porter Meadow is in accord with Town's management plan for the property, which calls for maintaining a view of the reservoir and (2) approved it (**motion:** Buck, Faccinetti).
4. **Meeting Schedule for 2012.** The Commission unanimously approved (**motion:** Buck, Faccinetti) the meeting schedule proposed for 2012, save for moving the November meeting to the second Wednesday (11/14/12) to avoid Thanksgiving week. Kessel will ask Town Planner Linda Painter to accommodate the date change.
5. Jessie Shea in the Planning Office has proposed moving from paper to **electronic packets for Commission meetings**, as the cost of preparing and mailing out paper is substantial. Lehmann noted that scans of publications (like *Connecticut Wildlife*) ordinarily included in the packet will be huge bit-map files that take a long time to download; he wondered if links to these documents could be provided instead. Kessel will ask if there is a way to do this.
6. The **Windham County Conservation Consortium** is concerned about staffing for and management of the state forests. Staffing has been cut by 50% over the last 15 years, and many state forests operate with no management plan or one that is out-of-date. The Consortium is proposing a pilot program at Goodwin State Forest to improve forest management and demonstrate the economic benefits of doing so.
7. Lehmann asked about the details of a proposed **payment in lieu of conservation easement** for the Listro property, mentioned in the minutes of the OSPC and the PZC. But nobody could supply any information.
8. **Dark Skies.** William Shakalis reported that he and Kessel had met with Linda Painter and PZC member Michael Beal on 9/29 to discuss what might be done to reduce light pollution in town. Ms. Painter seemed receptive and indicated that the Town hoped to get a grant to support updating and unifying its lighting regulations.

Kessel noted that CL&P appears willing to install full cut-off fixtures for outdoor lighting in new projects and when older fixtures wear out.

Shakalis also attended a recent Downtown Partnership meeting to urge that the Storrs Center project incorporate lighting conforming to the Dark Skies model lighting ordinance; he reported that his suggestions appeared to get a receptive hearing. Faccinetti noted that outdoor lighting

for the renovated athletic fields at E.O. Smith was on the agenda for this week's PZC meeting and wondered what, if anything, could be done to limit glare from this facility.

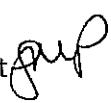
Finally, Shakalis brought to the Commission's attention "The City Dark", an 84-minute documentary film that might be used to promote awareness of the dark skies issue. It could be rented for about \$100 for a single showing, perhaps at E.O. Smith Auditorium. If the Commission wants to sponsor a showing, it would be best to get its sister Conservation Commissions in Willington and Ashford to co-sponsor it and also to enlist the help of teachers at E.O. Smith in encouraging/coercing their students to attend. The Commission unanimously agreed (**motion:** Buck, Drzewiecki) to endorse a public showing of "The City Dark", possibly at E.O. Smith Auditorium, to promote awareness of light pollution and to encourage steps to reduce it. Kessel will contact Gary Bent at E.O. Smith to see if he is interested in working on this project.

8. Adjourned at 8:25p.

Scott Lehmann, Secretary, 20 October 2011

TOWN OF MANSFIELD
DEPARTMENT OF PLANNING AND DEVELOPMENT

LINDA M. PAINTER, AICP, DIRECTOR

Memo to: Mansfield Town Council
Mansfield Conservation Commission
From: Linda M. Painter, AICP, Director of Planning and Development 
Date: November 9, 2011
Subject: Proposed Inland Wetlands Regulation revisions

The attached 11/1/11 draft revisions to Mansfield's Inland Wetlands Regulations and associated legal notice are referred to you for review. The proposed revisions have been referred to the Commissioner of the Department of Energy and Environmental Protection and Town Attorney. The draft revisions also have been filed with the Town Clerk and posted on the Town's web site.

A Public Hearing has been scheduled for January 3, 2012. Any comments on the draft revisions must be submitted prior to the close of the public hearing. Please contact Grant Meitzler, Inland Wetlands Agent at 429-3334 if you have any questions regarding this referral.

LEGAL NOTICE

The Mansfield Inland Wetland Agency will hold a Public Hearing on January 3, 2012, at 7:05pm in the Council Chambers, A.P. Beck Bldg., 4 So. Eagleville Rd., to hear comments on revisions to Mansfield's Inland Wetlands Regulations related to as-of-right exemptions for emergency fire use, "dry hydrants" and extension of permits approved prior to July 1, 2011.

At this Hearing, interested persons may be heard and written communications received. No information from the public shall be received after the close of the Public Hearings. Additional information, including the wording of the proposed revisions, is available in the Mansfield Planning and Town Clerk Offices and at www.mansfieldct.gov

R. Favretti, Chair
K. Holt, Secretary

TO BE PUBLISHED Tuesday, December 20 and Wednesday, December 28, 2011

****PLEASE CHARGE TO THE MANSFIELD PZC/IWA ACCOUNT**

Memorandum:

November 1, 2011

To: Inland Wetland Agency
From: Grant Meitzler, Inland Wetland Agent
Re: New Statute Revisions

There have been two new statute changes from the recent legislative session. These statute revisions have already taken effect and we are required to act according to the changes discussed here.

For setting the public hearing on these changes notice must be sent to the Commissioner of the Department of Environmental Protection by 35 days in advance of the hearing. From the November 7, 2011 IWA meeting this means either a Special Meeting on the third Monday on December 19, 2011 or Regular January 3, 2012 meeting, which is on a Tuesday.

The first applies an as-of-right exemption for emergency fire use, and to the installation of "dry hydrants" under the provisions of Section 4. The exemption for installation applies only if significant amounts of material are not involved.

The second change applies to permits approved before July 1, 2011 that did not expire before May 9, 2011. If any of these older permits have not expired before May 9, 2011 they are eligible for a total of up to 14 years from their original approval date.

A further provision is that a permit issued before July 1, 2011 that had not expired is to be valid for not less than nine years. This means an automatic extension of four years over the original five year term of validity.

Any new permit being issued after July 1, 2011 is treated just as before with a five year term and renewals extending to no more than ten years from the date of approval.

Other applicable sections for amendments to our regulations are:

Section 15.3 - The Agency shall provide the Commissioner of Environmental Protection with a copy of any proposed regulations and notice of the public hearing to consider any regulations or amendments thereto, except map amendments, at least thirty-five days before the public hearing on their adoption.

Section 15.8 - legal notice of the public hearing must appear in a local newspaper twice, the first not more than 15 days or less than 10 days before the date of the public hearing, and the second not less than two days before the date of the public hearing.

Section 15.10 - After approval of a regulation change is completed a final copy of the regulation change is to be sent to the

Commissioner of Environmental Protection.

In the past, copies of the proposed regulation changes have been sent to the Town Council, the Conservation Commission, and the Regional Planning Agency.

Section 3.0 Inventory of Inland Wetlands and Watercourses

- 3.1** The map of wetlands and watercourses entitled "Inland Wetlands and Watercourses Map, Mansfield Connecticut" (hereafter referred to as the "map") delineates the general location and boundaries of inland wetlands and the general location of watercourses. Copies of this map are available for inspection at the office of the Town Clerk, Planning Department or Town Engineer's Office. The precise location of wetlands and watercourses shall be determined by the actual character of the land, the distribution of wetland soil types and location of watercourses. The Agency may use aerial photography, remote sensing imagery, resource mapping, soils maps, site inspection observations or any other pertinent information in determining the location of the wetland boundaries and watercourses. Wetlands and watercourses (see definition in Section 2), even in they do not appear on Mansfield's Inland Wetlands and Watercourses map, are still subject to these regulations.
- 3.2** Any person may petition the Agency for an amendment to the map. All petitions for a map amendment shall be submitted in writing and shall include all relevant facts and circumstances which support the proposed amendment. The petitioner shall bear the burden of proof regarding the proposed map amendment. The Agency may require the petitioner to provide an accurate delineation of regulated areas in accordance with Section 15 of these regulations.
- 3.3** The Agency shall maintain a current inventory of regulated areas within the town. The Agency may amend its map as more accurate information becomes available.
- 3.4** All petitions for a map amendment shall be heard at a public hearing, in accordance with the procedure described in Section 15 of these regulations.

Section 4.0 Permitted Uses as of Right & Non-regulated Uses

- 4.1** The following operations and uses shall be permitted in inland wetlands and watercourses and upland review areas, as of right:
- A. Grazing, farming, nurseries, gardening and harvesting of crops and farm ponds of three acres or less essential to the farming operation, and activities conducted by, or under the authority of, the Department of Environmental Protection for the purposes of wetland or watercourse restoration or enhancement or mosquito control.

The provisions of this subdivision shall not be construed to include road construction or the erection of buildings not directly related to the farming operation, relocation of watercourses with continual flow, filling or reclamation of wetlands or watercourses with continual flow, clear cutting of timber except for the expansion of agricultural crop land, the mining of top soil, peat, sand, gravel or similar material from wetlands or watercourses for the purposes of sale;

- B. A residential home (A) for which a building permit has been issued or (B) on a subdivision lot, provided the permit has been issued or the subdivision has been approved by a municipal planning, zoning or planning and zoning commission as of the effective date of promulgation of the municipal regulations pursuant to subsection (b) of Section 22a-42a of the Connecticut General Statutes, or as of July 1, 1974, which ever is earlier, and further provided no

residential home shall be permitted as of right pursuant to this subdivision unless the permit was obtained on or before July 1, 1987;

- C. Boat anchorage or mooring, not to include dredging or dock construction
- D. Uses incidental to the enjoyment and maintenance of residential property, such property defined as equal to or smaller than the largest minimum residential lot site permitted anywhere in the municipality, provided that in any town, where there are no zoning regulations establishing minimum residential lot sites, the largest minimum lot site shall be two acres. Such incidental uses shall include maintenance of existing structures and landscaping, but shall not include removal or deposition of significant amounts of material from or onto a wetland or watercourse, or diversion or alteration of a watercourse;
- E. Construction and operation, by water companies as defined by Section 16-1 of the Connecticut General Statutes or by municipal water supply systems as provided for in Chapter 102 of the Connecticut General Statutes, of dams, reservoirs and other facilities necessary to the impounding, storage and withdrawal of water in connection with public water supplies except as provided in Sections 22a-401 and 22a-403 of the Connecticut General Statutes;
- F. Maintenance relating to any drainage pipe which existed before the effective date of any municipal regulations adopted pursuant to Section 22a-42a of the Connecticut General Statutes or July 1, 1974, whichever is earlier, provided such pipe is on property which is zoned as residential but which does not contain hydrophytic vegetation. For purposes of this subdivision, "maintenance" means the removal of accumulated leaves, soil, and other debris whether by hand or machine, while the pipe remains in place.
- G. Withdrawals of water for fire emergency purposes.

The following operations and uses shall be permitted, as non-regulated uses in wetlands and watercourses, provided they do not disturb the natural and indigenous character of the wetland or watercourse by removal or deposition of material, alteration or obstruction of water flow or pollution of the wetland or watercourse:

- A. Conservation of soil, vegetation, water, fish, shellfish and wildlife. Such operation or use may include, but is not limited to, minor work to control erosion or to encourage proper fish, wildlife and forestry management practices.
- B. Outdoor recreation including play and sporting areas, golf courses, field trials, nature study, hiking, horseback riding, swimming, skin diving, camping, boating, water skiing, trapping, hunting, fishing and shell fishing where otherwise legally permitted and regulated.
- C. Testing and monitoring associated with and related to water quality and subsurface drainage and/or sewage disposal systems.
- D. The installation of a dry hydrant by or under the authority of a municipal fire department, provided such dry hydrant is only used for firefighting purposes and there is no alternative access to a public water supply. For purposes of this section, "dry hydrant" means a non-pressurized pipe system that: (A) is readily accessible to fire department apparatus from a proximate public road, (B) provides for the withdrawal of water by suction to such fire department apparatus, and (C) is permanently installed into an existing lake, pond or stream that is a dependable source of water.

- view →
- 4.2 All activities in wetlands or watercourses and upland review areas involving filling, excavating, dredging, clear cutting, clearing, or grading or any other alteration or use of a wetland or watercourse not specifically permitted by this section and otherwise defined as a regulated activity by these regulations shall require a permit from the Agency in accordance with Section 6 of these regulations, or for certain regulated activities located outside of wetlands and watercourses from the duly authorized agent in accordance with Section 12 of these regulations.

- D. A description of the ecological communities and functions of the wetlands or watercourses involved with the application and the effects of the proposed activity on these communities and wetland functions;
- E. A description of how the applicant will change, diminish, or enhance the ecological communities and functions of the wetlands or watercourses involved in the application and each alternative which would cause less or no environmental impact to wetlands or watercourses, and a description of why each alternative considered was deemed neither feasible nor prudent;
- F. A description of the amount and kind of material to be deposited and/or removed including, as appropriate, an analysis of chemical or physical characteristics of any fill material; and
- G. Management practices and other measures designed to mitigate the impact of the proposed activity, including but not limited to specific grading and seeding/re-vegetation plans and specifications and management plans for the use of fertilizers, pesticides and other chemicals.

7.6 For all applications, the applicant shall certify whether:

- A. Any portion of the property on which the regulated activity is proposed is located within 500 feet of the boundary of an adjoining municipality;
- B. Traffic attributable to the completed project on the site will use streets within the adjoining municipality to enter or exit the site;
- C. Sewer or water drainage from the project site will flow through and impact the sewage or drainage system within the adjoining municipality; or,
- D. Water run-off from the improved site will impact streets or other municipal or private property within the adjoining municipality.

7.7 Unless an applicant is otherwise directed by the Agency or its Agent, a complete application shall consist of two (2) copies of full sized maps and other application materials and as applicable, fifteen (15) copies of reduced size (11"x17") maps and special reports.

7.8 Any application to renew or amend an existing permit shall be filed with the Agency in accordance with Section 8 of these regulations. Any application to renew or amend such an existing permit shall contain the information required under Section 7 of these regulations and:

- A. The documentation and record of the prior application;
- B. A description of the extent of work completed and the schedule for completing all activities authorized in the permit;
- C. The reason why the authorized activity was not initiated or completed within the time specified in the permit; and
- D. A description of any changes in facts or circumstances involved with or affecting wetlands or watercourses or use of the land since the permit was issued;

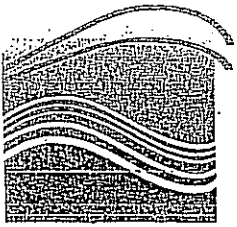
7.9 Any application to renew a permit shall be granted upon request of the permit holder unless the Agency finds that there has been a substantial change in circumstances which requires a new permit application or an enforcement action has been undertaken with regard to the regulated activity for which the permit was issued provided no permit shall be valid for more than ten years; including renewal periods, and further provided that any permit issued prior to July 1, 2011 that did not expire prior to May 9, 2011 shall be valid for no more than fourteen years.

7.10 For any permit application involving property subject to a conservation restriction or preservation restriction, the following shall apply:

- A. For purposes of this section, "conservation restriction" means a limitation, whether or not stated in the form of a restriction, easement, covenant or condition, in any deed, will or other instrument executed by or on behalf of the owner of the land described therein, including, but

watercourses including, as applicable, whether the proposed plan is preferable to the yield plan with respect to potential impacts on wetlands and watercourses.


- 11.7 Any permit issued by the Agency for the development of land for which an approval is required under Section 8-3, 8-25 or 8-26 of the Connecticut General Statutes shall be valid for five years, provided the Agency may establish a specific time period within which any regulated activity shall be conducted. Any permit issued by the Agency for any other activity shall be valid for not less than two years and not more than five years. Any permit issued by the Agency prior to July 1, 2011 that was in effect and did not expire prior to May 9, 2011 shall be valid for a period not less than nine years after the date of such approval. - New
- 11.8 Modifications. If the Agency grants a permit, the applicant may submit to the Agency a proposed modification of the application or of any permit terms, conditions, limitations or modifications. After evaluating the potential for impact on wetlands or watercourses and the approval standards of Section 10.2, the Agency shall determine whether the proposed modification is a significant or substantial alteration of the application as approved. Any significant or substantial revision of the application, as approved, shall require the filing of a new application and shall be subject to the requirements as set forth in these regulations and may under the requirements of Section 9.0 herein, be subject to a public hearing.
- 11.9 If a bond or insurance is required in accordance with Section 13 of these regulations, the Agency may withhold issuing a permit until such bond or insurance is provided.
- 11.10 General provisions in the issuance of all permits:
- The Agency has relied in whole or in part on information provided by the applicant and if such information subsequently proves to be false, deceptive, incomplete or inaccurate, the permit may be modified, suspended or revoked at the Agency's discretion.
 - All permits issued by the Agency are subject to, and do not derogate, any present or future rights or powers of the Agency or the Town of Mansfield, and convey no rights in real estate or material, nor any exclusive privileges, upon the land owner or applicant and are further subject to any and all public and private rights and to any federal, state, and municipal laws or regulations pertinent to the subject land or activity.
 - If the activity authorized by the Agency's permit also involves an activity which requires zoning or subdivision approval, or a special permit, variance or special exception under Sections 8.3(g), 8-3c, or 8-26 of the Connecticut General Statutes, no work pursuant to the wetland permit may begin until such approval is obtained.
 - Before starting other authorized activities, the permittee shall implement such management practices consistent with the terms and conditions of the permit as needed to control storm water discharges and to prevent erosion and sedimentation and to otherwise prevent pollution of wetlands and watercourses.
 - All permittees shall notify the Inland Wetlands Agent before any authorized work is commenced and again upon completion of the work. The initial notice shall include a planned work schedule.
 - As a condition of any permit, the Agency may require that the applicant engage at its own expense an independent consultant to report to the Agency the results of project monitoring and/or inspections. The consultant must be pre-approved by the Agency, and said consultant shall monitor, inspect and report on a schedule determined by the Agency.



Connecticut Department of

ENERGY &
ENVIRONMENTAL
PROTECTION

To: Connecticut's Municipal Inland Wetlands Agencies

From: Betsey Wingfield, Bureau Chief 
Bureau of Water Protection and Land Reuse

Dated: September 8, 2011

Re: 2011 Legislation and Regulations Advisory

In 2011 the Connecticut General Assembly amended the Inland Wetlands and Watercourses Act (IWWA) with the passage of two public acts: Public Act No. 11-5 and Public Act No. 11-184.

Public Act No. 11-5 amends sections 8-3(m), 8-26c(e), 8-26g(c), and 22a-42a(g) of the General Statutes of Connecticut. Specifically, section 4 of the public act, which amends section 22a-42a(g) of the IWWA, extends the deadlines that apply to certain inland wetlands agency permits. The new language states that any permit issued by a municipal inland wetlands agency that did not expire before May 9, 2011 (the effective date of the public act), is valid for nine years from the date of approval of such permit. Further, any permit that was issued before July 1, 2011 will also be valid for nine years from the date of approval of such permit. Pursuant to the new language of section 4 amending section 22a-42a(g) of the IWWA, the combined extensions of such permit, if renewal is sought, may lengthen the validity of such permit to a maximum of fourteen years.

It is important to note that for qualifying permits the extension of the initial length of the permit is automatic. Extensions by way of renewal are subject to a timely request by the permit holder.

Public Act No. 11-184 amends section 22a-40 of the General Statutes of Connecticut. Specifically, section 1 of the public act adds the withdrawal of water for fire emergency purposes as an as-of-right operation and use in wetlands and watercourses. Further, section 1 of the public act adds the installation of dry hydrants for firefighting purposes by or under the authority of a municipal fire department and under certain specified conditions as a new non-regulated use in wetlands and watercourses, and defines the term "dry hydrant".

A complete copy of Public Act No. 11-5 and Public Act No. 11-184 is attached for your information. Newly added language is underlined and deleted language is bracketed. You should plan to revise your inland wetlands agency regulations to reflect these amendments to the IWWA. The provisions of both section 22a-42a(g) and section 22a-40 of the General Statutes of Connecticut, as amended by both Public Act No. 11-5 and Public Act No. 11-184, govern until such time as your municipal regulations are amended. Section 4 of Public Act No. 11-5 became effective from the date of passage, which was May 9, 2011; and section 1 of Public Act No. 11-184 will become effective on October 1, 2011.

The following changes to the Inland Wetlands and Watercourses Model Municipal Regulations (IWWMMR) Fourth Edition, dated May 1, 2006, as amended by the Department of Energy and Environmental Protection's 2009 Legislation and Regulations Advisory, dated March 3, 2010, are made in order to conform to Public Act No. 11-5 and Public Act No. 11-184:

Section 4: Permitted Uses as of Right & Nonregulated Uses

The underlined language noted below is new and should be added to your regulations. The bracketed language noted below should be deleted from your regulations.

- 4.1 The following operations and uses shall be permitted in inland wetlands and watercourses, as of right:
- a. ...
 - b. a residential home [(i)] (A) for which a building permit has been issued or [(ii)] (B) on a subdivision lot, provided the permit has been issued or the subdivision has been approved by a municipal planning, zoning or planning and zoning commission as of the effective date of promulgation of the municipal regulations pursuant to subsection (b) of section 22a-42a, or as of July 1, 1974, whichever is earlier, and further provided no residential home shall be permitted as of right pursuant to this subdivision unless the permit was obtained on or before July 1, 1987;
 - c. ...
 - d. ...
 - e. Construction and operation, by water companies as defined by section 16-1 of the Connecticut General Statutes or by municipal water supply systems as provided for in chapter 102 of the Connecticut General Statutes, of dams, reservoirs and other facilities necessary to the impounding, storage and withdrawal of water in connection with public water supplies except as provided in sections 22a-401 and 22a-403 of the Connecticut General Statutes [and];
 - f. Maintenance relating to any drainage pipe which existed before the effective date of any municipal regulations adopted pursuant to section 22a-42a of the Connecticut General Statutes or July 1, 1974, whichever is earlier, provided such pipe is on property which is zoned as residential but which does not contain hydrophytic vegetation. For purposes of this subdivision, "maintenance" means the removal of accumulated leaves, soil, and other debris whether by hand or machine, while the pipe remains in place[.]; and
 - g. Withdrawals of water for fire emergency purposes.
- 4.2 The following operations and uses shall be permitted, as nonregulated uses in wetlands and watercourses, provided they do not disturb the natural and indigenous character of the wetland or watercourse by removal or deposition of material, alteration or obstruction of water flow or pollution of the wetland or watercourse:

- a. Conservation of soil, vegetation, water, fish, shellfish and wildlife; [and]
- b. outdoor recreation including play and sporting areas, golf courses, field trials, nature study, hiking, horseback riding, swimming, skin diving, camping, boating, water skiing, trapping, hunting, fishing and shellfishing where otherwise legally permitted and regulated [.] and
- c. The installation of a dry hydrant by or under the authority of a municipal fire department, provided such dry hydrant is only used for firefighting purposes and there is no alternative access to a public water supply. For purposes of this section, "dry hydrant" means a non-pressurized pipe system that: (A) is readily accessible to fire department apparatus from a proximate public road, (B) provides for the withdrawal of water by suction to such fire department apparatus, and (C) is permanently installed into an existing lake, pond or stream that is a dependable source of water.

Section 7: Application Requirements

The underlined language noted below is new and should be added to your regulations. The bracketed language noted below should be deleted from your regulations.

- 7.10 Any application to renew a permit shall be granted upon request of the permit holder unless the Agency finds that there has been a substantial change in circumstances which requires a new permit application or an enforcement action has been undertaken with regard to the regulated activity for which the permit was issued, provided [a)] no permit [issued during the time period from July 1, 2006, to July 1, 2009, inclusive,] shall be valid for more than [eleven] ten years, [; and b) no permit issued prior to July 1, 2006 or after July 1, 2009 may be valid for more than ten years.] and further provided that any permit issued prior to July 1, 2011 that did not expire prior to May 9, 2011 shall be valid for no more than fourteen years.

Section 11: Decision Process and Permit

The underlined language noted below is new and should be added to your regulations. The bracketed language noted below should be deleted from your regulations.

- 11.6 Any permit issued by the Agency [prior to July 1, 2006 or after July 1, 2009] for the development of land for which an approval is required under section 8-3, 8-25 or 8-26 of the Connecticut General Statutes shall be valid for five years provided the Agency may establish a specific time period within which any regulated activity shall be conducted. Any permit issued by the Agency [prior to July 1, 2006 or after July 1, 2009] for any other activity shall be valid for not less than two years and not more than five years. Any permit issued by the Agency [during the time period from July 1, 2006, to July 1, 2009, inclusive, shall expire not less than six years] prior to July 1, 2011 that was in effect and did not expire prior to May 9, 2011 shall be valid for a period not less than nine years after the date of such approval.

Should you have any further questions regarding the above changes, please feel free to contact Darcy Winther of the Wetlands Management Section at (860) 424-3019.

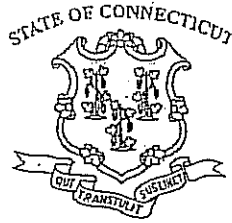
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Senate Bill No. 859

not expired prior to the effective date of this section, shall expire not less than [six] nine years after the date of such approval. Any such permit shall be renewed upon request of the permit holder unless the agency finds that there has been a substantial change in circumstances that requires a new permit application or an enforcement action has been undertaken with regard to the regulated activity for which the permit was issued, provided no such permit shall be valid for more than [eleven] fourteen years.

Approved May 9, 2011

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Senate Bill No. 859

Public Act No. 11-5

**AN ACT EXTENDING THE TIME OF EXPIRATION OF CERTAIN
LAND USE PERMITS.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. Subsection (m) of section 8-3 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(m) Notwithstanding the provisions of this section, any site plan approval made under this section [during the period from July 1, 2006,] prior to July 1, [2009, inclusive] 2011, that has not expired prior to the effective date of this section, except an approval made under subsection (j) of this section, shall expire not less than [six] nine years after the date of such approval and the commission may grant one or more extensions of time to complete all or part of the work in connection with such site plan, provided no approval, including all extensions, shall be valid for more than [eleven] fourteen years from the date the site plan was approved.

Sec. 2. Subsection (e) of section 8-26c of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(e) Notwithstanding the provisions of this section, any subdivision

Senate Bill No. 859

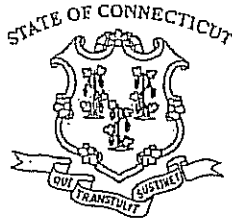
approval made under this section [during the period from July 1, 2006,] prior to July 1, [2009, inclusive] 2011, that has not expired prior to the effective date of this section, shall expire not less than [six] nine years after the date of such approval and the commission may grant one or more extensions of time to complete all or part of the work in connection with such subdivision, provided [the time for all extensions under this subsection shall not exceed eleven] no subdivision approval, including all extensions, shall be valid for more than fourteen years from the date the subdivision was approved.

Sec. 3. Subsection (c) of section 8-26g of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(c) Notwithstanding the provisions of this section, [any approval of a subdivision of land for a project of four hundred or more dwelling units made during the period from July 1, 2006, to July 1, 2009, inclusive, shall expire not less than eleven years after the date of such approval] for any subdivision of land for a project consisting of four hundred or more dwelling units and approved prior to July 1, 2011, that has not expired prior to the effective date of this section, any person, firm or corporation making such subdivision shall complete all work in connection with such subdivision not later than the date fourteen years after the date of approval of the plan for such subdivision. The commission's endorsement of approval on the plan shall state the date on which such fourteen-year period expires.

Sec. 4. Subsection (g) of section 22a-42a of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(g) Notwithstanding the provisions of subdivision (2) of subsection (d) of this section, any permit issued under this section [during the period from July 1, 2006,] prior to July 1, [2009, inclusive] 2011, that has



Substitute House Bill No. 5068

Public Act No. 11-184

AN ACT CREATING A REBUTTABLE PRESUMPTION FOR THE APPROVAL OF AN INLAND WETLANDS PERMIT FOR A DRY HYDRANT.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. Section 22a-40 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2011*):

(a) The following operations and uses shall be permitted in wetlands and watercourses, as of right:

(1) Grazing, farming, nurseries, gardening and harvesting of crops and farm ponds of three acres or less essential to the farming operation, and activities conducted by, or under the authority of, the Department of Environmental Protection for the purposes of wetland or watercourse restoration or enhancement or mosquito control. The provisions of this subdivision shall not be construed to include road construction or the erection of buildings not directly related to the farming operation, relocation of watercourses with continual flow, filling or reclamation of wetlands or watercourses with continual flow, clear cutting of timber except for the expansion of agricultural crop land, the mining of top soil, peat, sand, gravel or similar material from wetlands or watercourses for the purposes of sale;

Substitute House Bill No. 5068

(2) A residential home [(i)] (A) for which a building permit has been issued, or [(ii)] (B) on a subdivision lot, provided the permit has been issued or the subdivision has been approved by a municipal planning, zoning or planning and zoning commission as of the effective date of promulgation of the municipal regulations pursuant to subsection (b) of section 22a-42a or as of July 1, 1974, whichever is earlier, and further provided no residential home shall be permitted as of right pursuant to this subdivision unless the permit was obtained on or before July 1, 1987;

(3) Boat anchorage or mooring;

(4) Uses incidental to the enjoyment and maintenance of residential property, such property defined as equal to or smaller than the largest minimum residential lot site permitted anywhere in the municipality, provided in any town, where there are no zoning regulations establishing minimum residential lot sites, the largest minimum lot site shall be two acres. Such incidental uses shall include maintenance of existing structures and landscaping but shall not include removal or deposition of significant amounts of material from or onto a wetland or watercourse or diversion or alteration of a watercourse;

(5) Construction and operation, by water companies as defined in section 16-1 or by municipal water supply systems as provided for in chapter 102, of dams, reservoirs and other facilities necessary to the impounding, storage and withdrawal of water in connection with public water supplies except as provided in sections 22a-401 and 22a-403; [and]

(6) Maintenance relating to any drainage pipe which existed before the effective date of any municipal regulations adopted pursuant to section 22a-42a or July 1, 1974, whichever is earlier, provided such pipe is on property which is zoned as residential but which does not contain hydrophytic vegetation. For purposes of this subdivision,

Substitute House Bill No. 5068

"maintenance" means the removal of accumulated leaves, soil, and other debris whether by hand or machine, while the pipe remains in place; and

(7) Withdrawals of water for fire emergency purposes.

(b) The following operations and uses shall be permitted, as nonregulated uses in wetlands and watercourses, provided they do not disturb the natural and indigenous character of the wetland or watercourse by removal or deposition of material, alteration or obstruction of water flow or pollution of the wetland or watercourse:

(1) Conservation of soil, vegetation, water, fish, shellfish and wildlife; [and]

(2) Outdoor recreation including play and sporting areas, golf courses, field trials, nature study, hiking, horseback riding, swimming, skin diving, camping, boating, water skiing, trapping, hunting, fishing and shellfishing where otherwise legally permitted and regulated; and

(3) The installation of a dry hydrant by or under the authority of a municipal fire department, provided such dry hydrant is only used for firefighting purposes and there is no alternative access to a public water supply. For purposes of this section, "dry hydrant" means a non-pressurized pipe system that: (A) Is readily accessible to fire department apparatus from a proximate public road, (B) provides for the withdrawal of water by suction to such fire department apparatus, and (C) is permanently installed into an existing lake, pond or stream that is a dependable source of water.

(c) Any dredging or any erection, placement, retention or maintenance of any structure, fill, obstruction or encroachment, or any work incidental to such activities, conducted by a state agency, which activity is regulated under sections 22a-28 to 22a-35, inclusive, or sections 22a-359b to 22a-363f, inclusive, shall not require any permit or

Substitute House Bill No. 5068
approval under sections 22a-36 to 22a-45, inclusive.

Approved July 13, 2011

Memorandum:

November 2, 2011

To: Inland Wetland Agency
From: Grant Meitzler, Inland Wetland Agent
re: W1485 - Bell - 552 Bassetts Bridge Rd

plan reference: dated revised October 26, 2011

More information is needed as follows:

1. proposed parking location has been moved to better locations that are farther from wetlands and in a better surfaced area for cars. A total of 54 spaces appear to be indicated.

There are still no comments regarding the control of parking and it is not clear what the defined spaces are being marked with in order to define them as individual spaces as shown on this revised plan.

A large future parking option located downhill and west of the existing "rear" parking area is shown and has 59 spaces indicated.

2. The plan now bears the statement that a full 20' driveway width will be provided. With this widening some work very near or slightly in wetlands is going to be required to have a 20' wide drive. Most of the drive will presently accommodate this width with only minor grading and clearing of weed growth.

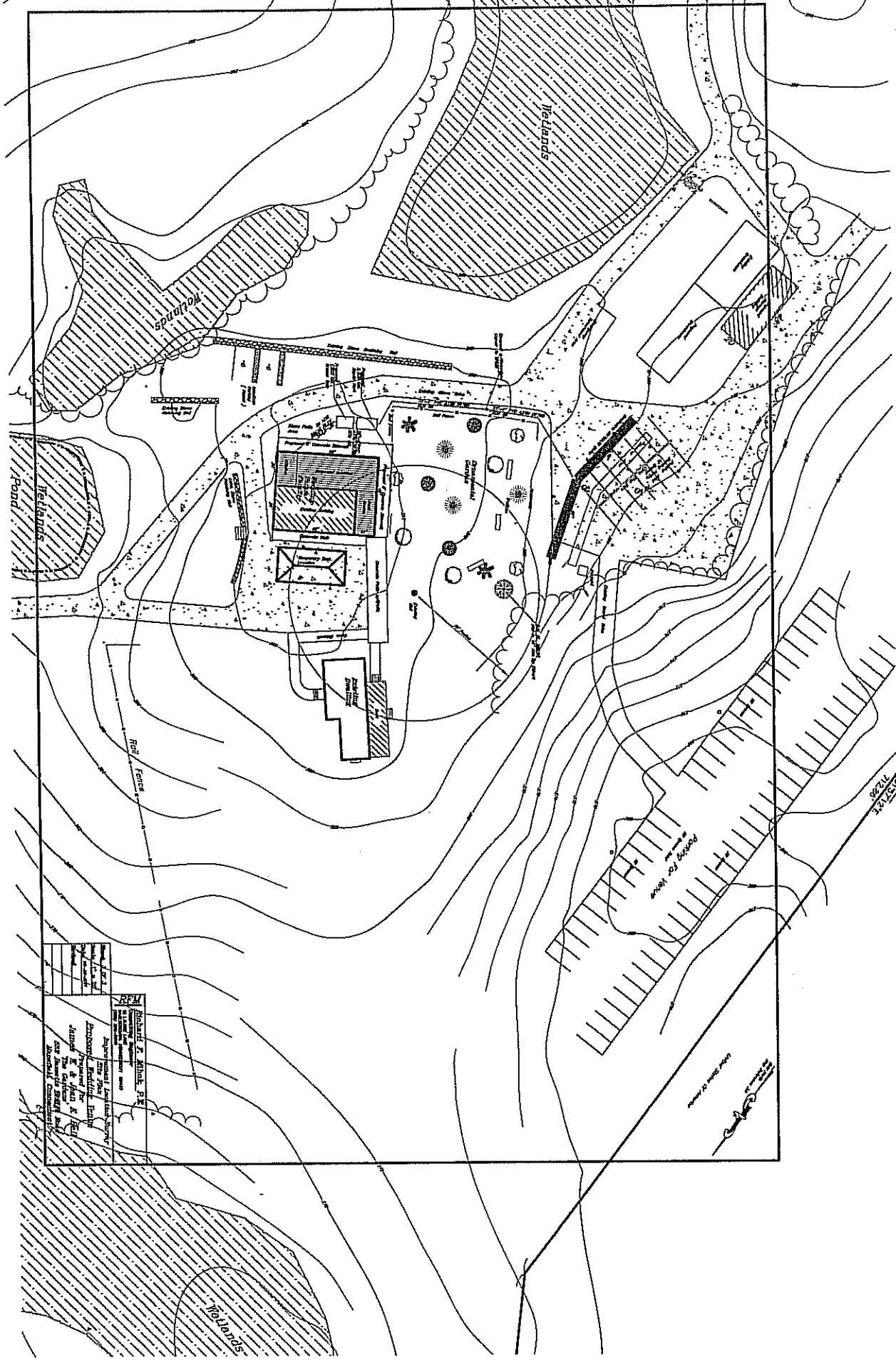
The most work appears to be needed in the area west of Pole #3994. Standing water is present right at the edge of the present drive in this area.

3. A specific layout of the handicapped parking spaces (2) is shown in the same general areas before. Paving of these two spaces is noted. No specific limits of the paving for these 2 spaces are shown and should be added to the plan.

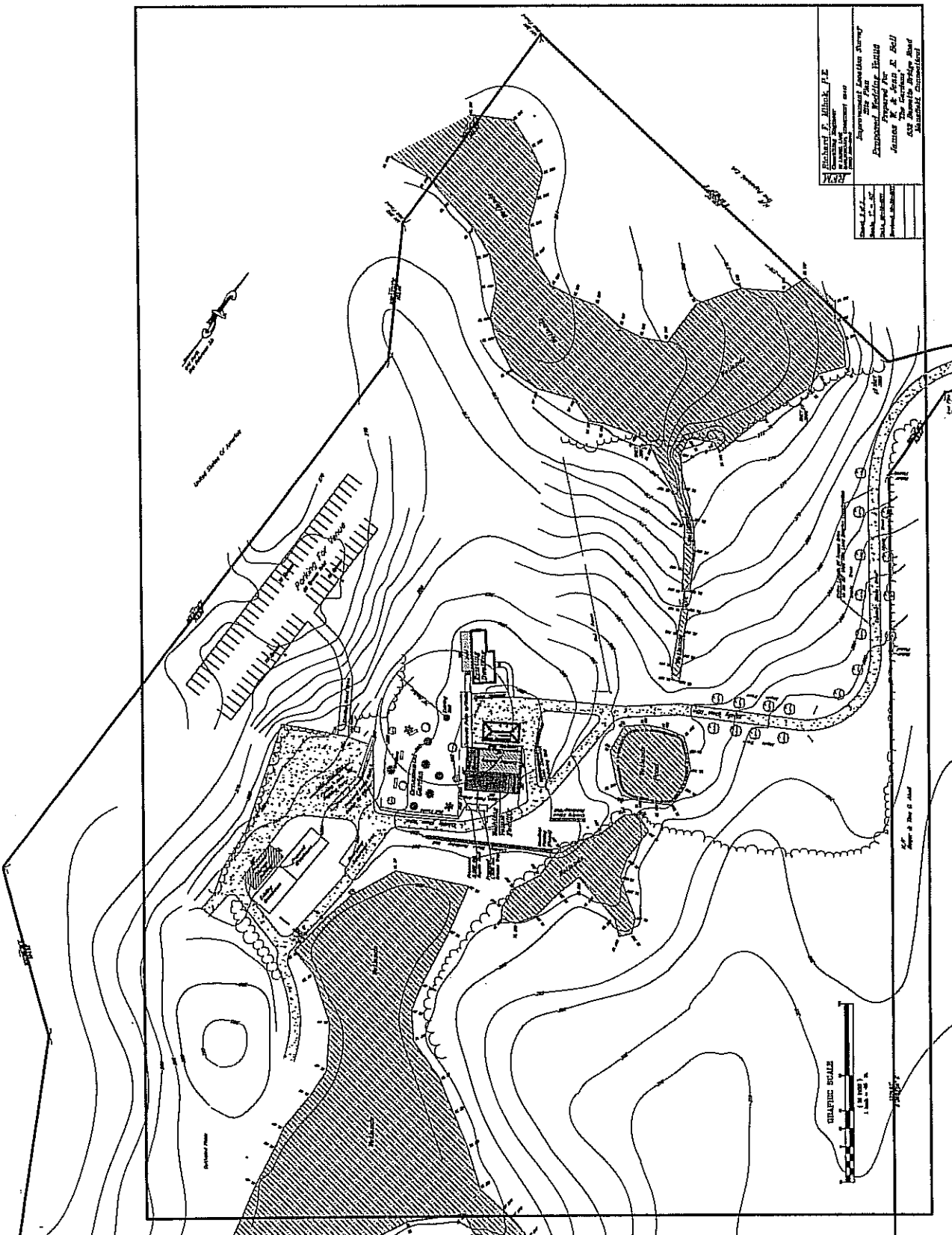
There is a considerable drop over the "existing stone retaining wall" at the head of these two spaces. Wheel stop protection is strongly recommended for these two spaces.

The present mandatory action date for acting on this application is November 25, 2011. The 25th is the Friday after Thanksgiving Day.

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1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31	32	33	34	35	36	37	38	39	40	41	42	43	44	45	46	47	48	49	50	51	52	53	54	55	56	57	58	59	60	61	62	63	64	65	66	67	68	69	70	71	72	73	74	75	76	77	78	79	80	81	82	83	84	85	86	87	88	89	90	91	92	93	94	95	96	97	98	99	100
Hand-drawn site plan of a facility, possibly a military or research installation. The plan shows several buildings, including a large central structure with a hatched roof, a smaller building to its right, and a long building at the bottom right. A parking lot is located near the bottom right building. The facility is surrounded by terrain indicated by contour lines and hatched areas labeled "Hillside". A "Red Fence" is shown on the left side. A "Road" is indicated at the bottom left. A "Pond" is located near the top left. A "Water Source" is marked at the bottom right. The plan includes various symbols for trees, shrubs, and other features. A legend is provided in the bottom left corner.																																																																																																			



Prepared by	Richard F. Black, P.E.
Checked by	Richard F. Black, P.E.
Designed by	Richard F. Black, P.E.
Drawn by	Richard F. Black, P.E.
Project No.	100-100-100
Sheet No.	1 of 1
Scale	1" = 100'
North Arrow	North Arrow
Project Name	Proposed Road Improvement
Location	100-100-100
Client	100-100-100
Date	100-100-100
Author	100-100-100
Reviewer	100-100-100
Approver	100-100-100
Project Manager	100-100-100
Project Engineer	100-100-100
Project Surveyor	100-100-100
Project Designer	100-100-100
Project Drafter	100-100-100
Project Checker	100-100-100
Project Approver	100-100-100
Project Manager	100-100-100
Project Engineer	100-100-100
Project Surveyor	100-100-100
Project Designer	100-100-100
Project Drafter	100-100-100
Project Checker	100-100-100
Project Approver	100-100-100

Mansfield Open Space Preservation Committee
DRAFT Minutes of October 25, 2011 meeting

Members present: Jim Morrow (chair), Vicky Wetherell, Sue Westa, Quentin Kessel, Jennifer Kaufman (staff).

1. Meeting was called to order at 7:30.
2. Vicky was appointed acting secretary.
3. Minutes of the September 27, 2011 meeting were approved.

Old Business

4. Executive Session

The committee went into executive session at 7:45 and came out of executive session at 8:45. The committee's recommendations will be forwarded to the Town Council.

New Business

5. Revised Meeting Schedule

The committee will have a regular meeting on November 22 and a special meeting on December 20.

6. Dorwart Preserve Trail

The committee discussed options for adding a loop trail to the Preserve.

7. Meeting adjourned at 8:50.
9. Next meeting on November 22, 2011.

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Memorandum:

November 3, 2011

To: Inland Wetland Agency
From: Grant Meitzler, Inland Wetland Agent
Re: Monthly Business

W1419 - Chernushek - hearing on Order

3.10.09: The hearing on the Order remains open and should continue until the permit application under consideration is acted upon.

(The Order was dropped on approval of the application required in the Order.)

4.30.09: Former rye grass seeding is beginning to show green. I spoke with Mr. Chernushek this afternoon who indicated health problems that delayed his starting but indicated he will be working this weekend. I will update on this Monday evening.

5.26.09: A light cover of grass growth has come in. Mr. Chernushek indicates health problems and two related deaths have delayed his start of work since the permit approval was granted. It appears that some light work has started. He has further indicated that he will start a vacation on June 22, 2009 to finish the work.

6.13.09: Work is underway.

6.21.09: Bulldozer work has been completed - finish work remains. The additional silt fencing has been placed along the northerly wetlands crossing, and the additional pipe under the southerly crossing has been installed. Remaining work includes finish grading along edges, spreading stockpiled topsoil, and establishing grass growth.

7.01.09: I spoke with Mr. Chernushek who indicated he expects work to be completed by September 1, 2009. (Site photo attached).

9.03.09: Mr. Chernushek has been working on levelling and grading. The formerly seeded areas have become fairly thick growth surrounding the central wet areas. He has further indicated that with the combination of weather and the slower moving of earth with the payloader compared to the earlier rented bulldozer has led him to contact contractors for earth moving estimates which have not yet been received. The site is not yet finished but has remained quite stable.

9.12.09: I met with Mr. Chernushek today and discussed again what his plans are for stabilizing this work site.

10.01.09: Mr. Chernushek indicated he has not heard back from the contractor he had spoken with about removing material, and is in progress of contacting others. In discussion is removal of material from the site either within the 100 cubic yard limit or obtaining a permit for such removal.

10.28.09: Mr. Chernushek has indicated he has made arrangements with DeSiato Sand & Gravel to remove 750 cubic yards of material. Staff is in the process of clarifying permit requirements.

W1445 - Chernushek - application for gravel removal from site

11.30.09: Packet of information representing submissions by Mr. Chernushek, Mr. DeSiato and myself is in this agenda packet as Mr. Chernushek's request for modification.

12.29.09: Preparation of required information for PZC special permit application is in progress. Tabling any action until the February 1, 2010 meeting is recommended.

- 1.12.10: 65 day extension of time received.
- 2.18.10: No new information has been received.
- 2.25.10: This application has been **withdrawn**.
- 6.30.10: As viewed from the adjacent property, the upstream and downstream areas have grown to a decent protected surface. I did not see indication of sediment movement.
- 10.26.10: A sale of the East portion of the Chernushek property has been in negotiation.
- 12.27.10: The property exchange has been completed. The owner is now the neighboring property owner Bernie Brodin. He has indicated his intention to stabilize the area as weather permits.
- 4.25.11: Mr. Brodin indicates he is starting with grading and spreading hay and seed to stabilize disturbed areas.

Mansfield Auto Parts - Route 32

- 9.01.10: Inspection - no vehicles are within 25' of wetlands. Mr. Bednarczyk has started removing tires from the westerly part of his site using roll-off containers. With this arrangement a moderately steady rate of removal of the tires should be possible to maintain until the tires are completely removed.
- 9.28.10: Inspection - no vehicles are within 25' of wetlands. Tire removal is continuing with 1 to 2 roll-off containers being removed per month.
- 10.07.10: Inspection - no vehicles are within 25' of wetlands. Tire removal has been continuing.
- 11.29.10: Inspection - no vehicles are within 25' of wetlands. Owner has been trucking cars for crushing with 6 tires per vehicle. He indicates 3 cars per day or 18 tires per day. The actual number is probably lower than 18.
- 12.23.10: Inspection - no vehicles are within 25' of wetlands.
- 1.07.11: Inspection - no vehicles are within 25' of wetlands.
- 1.20.11: Vehicle storage areas are snowed in and inaccessible.
- 1.26.11: Snows remain, although some clearing has been done I could not count on being able to get out.
- 2.24.11: Inspection - no vehicles are within 25' of wetlands.
- 3.09.11: Inspection - no vehicles are within 25' of wetlands.
- 3.22.11: Inspection - no vehicles are within 25' of wetlands.
- 4.25.11: Inspection - no vehicles are within 25' of wetlands.
- 5.17.11: Inspection - no vehicles are within 25' of wetlands. Mr. Bednarczyk's estimate is that approximately 100 tires per month are being removed from the site.
- 6.14.11: Inspection - no vehicles are within 25' of wetlands.
- 7.12.11: Inspection - no vehicles are within 25' of wetlands.
- 8.04.11: Inspection - no vehicles are within 25' of wetlands.
- 9.13.11: Inspection - no vehicles are within 25' of wetlands.
- 11.03.11: Inspection - two vehicles are within 25' of wetlands. Vehicle doors and a camper or trailer are stored in the extreme rear lot not approved by zoning for use.

Paideia - Dog Lane

- 8.05.11: Meeting on site with Elios Tomassos, Linda Painter, Grant Meitzler. Discussed requirements for sediment & erosion control with Mr. Tomassos.

- Contractor delivering fill has begun grading.
- 8.08.11: Inspection - silt fencing is in place and shows evidence of trapping sediment from the weekend storm which was reported as much as 4 inches in this area.
- Contractor has been grading on site all day.
- 9.14.11: The filled area has been seeded and is starting to show grass growth.
- 9.26.11: Grass growth has continued to come in. This is temporary stabilization and final grading remains to be done.
- 11.02.11: Plantings have been done on the areas between the buildings and the road.

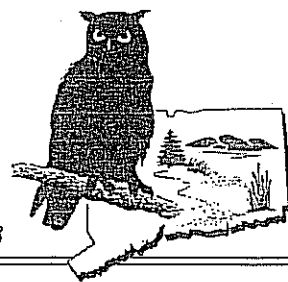
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THE HABITAT

A newsletter of the Connecticut Association of Conservation
and Inland Wetlands Commissions, Inc.

fall 2011

volume 23 number 3



CACIWC's 34th Annual Meeting & Environmental Conference

November 12, 2011

New Tracks and Workshop Sessions for Conservation & Wetlands Commissioners and Agents

In response to your requests,
a broad selection of work-
shops is offered for new as
well as experienced com-
missioners these four areas:

- Open Space & Conservation Biology
- Land Use Law & Legal Updates
- Best Management Practices & Procedures
- Low Impact Development & Sustainability

See pages 8 & 9 for the
complete list of workshops.

*There is still time to sub-
mit your nominations for
a CACIWC annual award!
See page 9 or www.CACIWC.org for more
information.*

Daniel C. Esty, Commissioner of the Connecticut Department of Energy and Environmental Protection (DEEP), to address CACIWC's Annual Conference

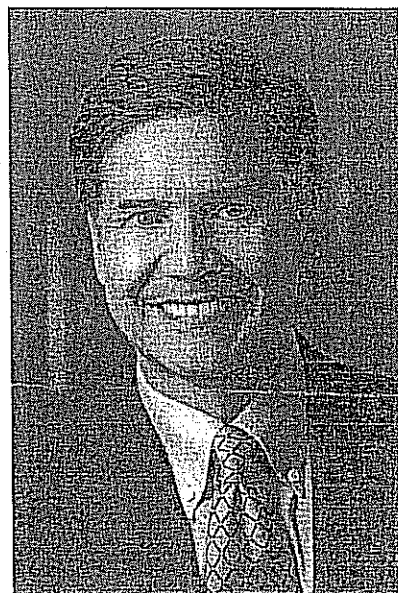
Conference Theme is "Celebrating Five Decades of
Environmental Conservation and Habitat Protection"

Daniel C. Esty will be the keynote speaker
at CACIWC's 34th Annual Meeting
and Environmental Conference on Saturday,
November 12, 2011 at MountainRidge in
Wallingford. He will help us celebrate the 50th
anniversary of the law establishing conservation
commissions in Connecticut and the following
decades of habitat protection efforts made by
conservation and inland wetlands commissioners
and their staff.

Almost ten years before the original Earth Day, a
small coalition of local conservation groups and
clubs led by Hartford Times editor Ward E. Duffy,
convinced members of the 1961 Connecticut
General Assembly to introduce House Bill No.
3470, which was passed as Public Act No. 310.

By this act, Connecticut municipalities were first authorized to form conservation
commissions. Subsequent legislative sessions clarified and added to their duties and
responsibilities and eventually led to the added responsibility of regulating inland
wetlands and the formation of local wetlands agencies.

Commissioner Esty will discuss the progress that has been made in both preserving
critical habitats and improving environmental quality throughout Connecticut
during the fifty years since the passage of the 1961 Public Act. He will emphasize
the value of dedicated local conservation and wetlands commissioners and staff in
continuing their local habitat preservation efforts in partnership with the DEEP and
other agencies.



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Commissioner Esty was appointed
by Governor Dannel P. Malloy
in March, 2011 to serve as
Commissioner of what was then
the Connecticut Department
of Environmental Protection

keynote, continued on page 14

CACIWC

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www.caciwc.org

CACIWC News

The CACIWC Board of Directors has continued to receive feedback in response to our new column, designed to provide conservation and wetlands commissioners, agents, directors and other readers with highlights of recent decisions and other news from our board and committee meetings. Please do not hesitate to contact us via email at board@caciwc.org if you have any questions or comments on these items or if you have other questions of your board of directors.

Thank you ~ Alan J. Siniscalchi, President

1. Based on suggestions from last year's meeting and many of you, the CACIWC Board of Directors and its Annual Meeting Committee have assembled a new series of workshops organized within revised session tracks that were designed to bring useful information to attendees of this year's meeting. Additional details of our **34th Annual Meeting and Environmental Conference**, scheduled for Saturday, November 12, 2011 at MountainRidge in Wallingford, can be found in this issue of *The Habitat*.

2. This year marks a special milestone for CACIWC with the 50th anniversary of the enabling legislation authorizing the establishment of municipal conservation commissions in Connecticut. Our keynote speaker, *Connecticut DEEP Commissioner Daniel C. Esty* will help us celebrate this anniversary. We are looking for **photographs documenting the activities of these early commissions**. Please scan or digitize the photographs and send them to us at AnnualMtg@caciwc.org along with suggested captions and information on whom to credit. Watch for additional conference news on our website: www.caciwc.org.

3. Although the Board and its Annual Meeting Committee have already received several excellent nominations for our **2011 Annual CACIWC Awards**, there is still time to submit yours! The 2011 nomination form has been placed on our website. Just print it out, scan it and email it to us at: AnnualMtg@caciwc.org.

4. Don't forget to **register early for 2011 Meeting**. While the general admission fee will be increased for 2011 meeting, the Committee had decided not to increase the registration fee for members from town commissions *who register early and are current with their membership dues*. You can print out our new conference registration form from our website: www.caciwc.org.

5. The Board has been pleased by the number of commissions who have already sent in their **2011-12 membership dues** in response to the reminder and renewal form mailed earlier in

news, continued on page 15



State Supreme Court Rules: Farm Roads Constructed with Fill in Wetlands Not Exempt From Wetlands Permit Requirement

by Attorney Janet Brooks

In a unanimous decision (6-0) released in August, the state Supreme Court ruled in *Taylor v. Conservation Commission*¹, 302 Conn. 60 (2011), that roads constructed with fill in wetlands are not exempt from the state wetlands law -- thus, a wetlands permit is required. The Supreme Court believed it was addressing only those roads involving fill. I represented the plaintiff, Jim Taylor, in his appeal to the Superior Court after the Fairfield Conservation Commission denied his request for a determination of farming exemption. In that original agency decision, in the spring of 2006, the commission denied that his plan fell within the farming exemption. The trial court ruled in 2007 that the agency failed to make a determination on each of the proposed activities. The agency was required to rule activity-by-activity whether the farming exemption applied.

At that point, February 2008, the agency determined that everything he proposed fell within the farming exemption (removal of stones, construction of stone walls, a fence, a dug well, an addition to an existing barn, the planting of a nursery, fruit trees and flower, herb and vegetable beds and the maintenance of a grass swale, the construction of a one farm road in the upland) *except* two roads in the wetlands. I represented Jim Taylor in his second appeal to the Superior Court, this time narrowly focusing on the meaning of the farm road provision in the farming exemption. The trial court upheld the agency action. On appeal to the Supreme Court, I represented the Connecticut Farm Bureau Association, Inc., amicus curiae in the appeal.

To those of you who have not had to think much about the farming exemption or any exemption under the wetlands law, you might think that construction of any road involving fill in a wetland requires a wetlands permit. But consider this -- regulated activities, the

ones which require a permit, are defined by *excluding* the activities in the statutory exemption. So, the discussion of an exemption must begin by examining the statute. The language for the farming exemption in Conn. Gen. Stat. § 22a-40 (a) (1) is not what I would call straightforward. The first sentence is clear: a number of activities are listed. Farming is one of them. (Other case law² requires us to apply the definition of farming found in Conn. Gen. Stat. § 1-1(q), if the enabling legislation [the wetlands act] does not include a specific definition of farming. [It does not.]) But then you start to wonder, what about

the farm road to get the equipment to the fields or the harvest out of the fields to the market? Is that road included? So, you proceed to the second sentence:

"We conclude that, even if road construction directly related to the farming operation is permitted as of right, such road construction is not permitted as of right if it involves the filling of wetlands, because the filling of wetlands is not permitted as of right."

"The provisions of this subdivision shall not be construed to include road construction or the erection of buildings not directly related to the farming operation, relocation of watercourses with continual flow, filling or reclamation of wetlands or watercourses with continual flow . . ."

The second sentence tells you what's *not* in the exemption, in other words, what needs a permit. It does so with a double negative. *Could the legislature have drafted this second more clearly? Absolutely.*

Here is the conflict: "road construction directly related to the farming operation" vs. "filling of wetlands."

The Supreme Court resolves that tension with this one-sentence conclusion: "We conclude that, even if road construction directly related to the farming operation is permitted as of right, such road construction is not permitted as of right if it involves the filling of wetlands, because the filling of wetlands

legal, continued on page 4

is not permitted as of right.”³ With the “even if” phrase, the Supreme Court informs us it hasn’t decided that the road construction is permitted as of right. The Supreme Court focused on the “filling of wetlands” exclusion to the exemption. That is clear. The Supreme Court states: “It [the statutory exemption] plainly and unambiguously does not permit the filling of wetlands as of right.”

But what is left of the “road construction” exemption? Hard to know. The Supreme Court stated in the text of the decision (quoted above) that it hasn’t decided whether there is a road construction exemption. The Supreme Court restates that in footnote 10: “We emphasize that, because we conclude that filling in wetlands is not permitted as of right, we do not address the questions of whether road construction directly related to the farming operation is permitted as of right . . .”

The word “construct” means, according to the Random House Webster’s College Dictionary, “to build or form by putting together parts.” Those parts would constitute some kind of material, which in turn, would mean, that the construction of all roads involves “fill” of some sort. I’m hard-pressed to fathom what is left of the exemption for road construction directly related to the farming operation. Yet, the Supreme Court was unwilling to express any opinion on the meaning or breadth of the construction of farm roads.

The Supreme Court notes that the wetlands staff memo mentions that floodplain soils can be sturdy enough to drive on. The genesis of this position is from Steve Tessitore, former DEP employee in the wetlands program. Such use of land, however, isn’t the same as road construction. In that case, no road construction is necessary. But what about when road construction is necessary?

Back to the definition, how do you build a road without putting together parts . . . composed of materials . . . which constitute fill? The Supreme Court did not believe it needed to consider that possibility, thinking it only necessary to do so if Jim Taylor established that all roads require fill.⁴

When I read a case, I want to understand, looking back, what the court did, and looking forward, what the court will do. The Supreme Court reduced to black-and-white that Jim Taylor’s farm roads involving fill in the wetlands are not exempt and require a permit; and looking forward, no fill of a farm road will fall within the exemption. But also looking forward, what farm roads can be constructed as an exempt activity remains gray. In my view, the Supreme Court missed an opportunity to *definitely* interpret “construction of roads directly related to the farming operation.”

Looking back, I note that Jim Taylor initially filed his request for a determination of exemption in February 2006. Five-and-a-half years later he knows he needs to file for a permit without any guidance from the Supreme Court as to whether an exemption for constructing a farm road even exists.

Whenever I write about the farming exemption I end up with the same thought: don’t the wetlands agency members and those seeking to farm deserve a straightforward statute that spells out what is exempt and what is not?

Janet P. Brooks practices law in East Berlin. You can read her blog at: www.ctwetlandslaw.com.

(Endnotes)


¹ This case can be read on the judicial website at: <http://www.jud.ct.gov/external/supapp/Cases/AROCr/cr302/302CR105.pdf>. You may search for it yourself on the judicial website (www.jud.ct.gov) by going to the archives of the Supreme Court, clicking on 2011, then scrolling down to “published in the Connecticut Law Journal - 8/16/11 and clicking on the Taylor case.

² See *Johnson v. Board of Tax Review*, 160 Conn. 71, 75 (1970) (“To search for a definition beyond that in § 1-1 would require us to ignore the specific direction that ‘agriculture’ and ‘farming’ shall be defined as stated therein. To do so would be improper. Thus, we must apply the definitions prescribed by the legislature in § 1-1.”)

³ *Taylor v. Conservation Commission*, 302 Conn. 60, 67 (2011).

⁴ “(B)ecause the plaintiff has not demonstrated that all road construction on wetlands requires the use of fill, the plaintiff has not demonstrated that our interpretation of the statute renders the subject clause meaningless.” *Taylor v. Conservation Commission*, 302 Conn. 60, 67 n.8 (2011).





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Old Dog, New Trick: CEPA at 40

by Karl Wagener, Executive Director, Council on Environmental Quality

Editor's Note: Conservation Commissions should understand and have a working knowledge of the Connecticut Environmental Policy Act (CEPA). The CT Council on Environmental Quality, recently saved from budget cuts, is an excellent source for CEPA information.

The Connecticut Environmental Policy Act (CEPA) is one of our bedrock environmental laws. In 2011, CEPA turned forty years old and also underwent an important change in the way it is implemented by state agencies. Municipal commissions should be aware of the change to avoid being taken by surprise when the bulldozers show up. Fortunately, I can suggest a way to avoid any such calamities.

CEPA is the state law that requires state agencies to prepare Environmental Impact Evaluations (EIEs) for state-sponsored or state-funded projects. Prior to preparing an EIE, the agency is required to publish a "scoping notice", which is a solicitation of public comments during the early stages of project development. Such notices are posted in the Environmental Monitor (www.ct.gov/ceq/monitor), which is published online twice a month by the Council on Environmental Quality.

In the past, a scoping notice was almost always followed in a few months by an EIE unless the project was abandoned. This is no longer true. If an agency posts a scoping notice and receives no comments that suggest the impacts might be significant (and perhaps even if such comments ARE received), then the agency may publish a "post-scoping notice" in the Environmental Monitor. There is no public comment on post-scoping notices; after publication, the project is good to go.

Here is my suggestion: If you have an interest in a state-sponsored or state-funded project and are concerned about its potential impacts, be sure to submit com-

ments during the scoping period. Many people who are interested in a state project do not comment during the scoping period, figuring that they will get a chance later to submit detailed comments on the EIE. That used to be a valid conclusion, but no longer. For some projects, the scoping period might be the only opportunity for public comment.

This change was made without any amendment to the CEPA statute or regulations. It is a process spelled out in the new Environmental Classification Documents that guide agencies' decisions to prepare (or not) an EIE. More information is available by clicking the "What is CEPA?" link on the Environmental Monitor page and following the relevant links on the CEPA pages of the Office of Policy and Management website. (Note that if you read the agencies' Environmental Classification Documents you will not actually find the term "post-scoping notice"; that is a term invented by the editors of the Environmental Monitor to improve public understanding of what officially is termed a "written memorandum".)

If you want to be sure you don't miss anything, I encourage you to sign up for e-alerts on the CEQ website to receive an email each time the Monitor is published. Please feel free to contact me at any time if you have questions or if you encounter any problems signing up for e-alerts.

Karl Wagener can be reached at 860-424-4000;

karl.wagener@ct.gov; www.ct.gov/ceq



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Municipal Inland Wetlands Commissioners Training Program

State of Connecticut, Department of Energy and Environmental Protection

Segment 3 of the 2011 Municipal Inland Wetlands Commissioners Training Program will be held in October and November. This year's workshop is titled "Connecticut's Inland Wetlands and Watercourses Act: *Connecticut's Soils*". The workshop consists of morning classroom presentations followed by an afternoon field visit to examine three exposed soil profiles. Brochures were mailed to every municipal inland wetlands agency during the week of September 12, 2011.

Dates and locations are:

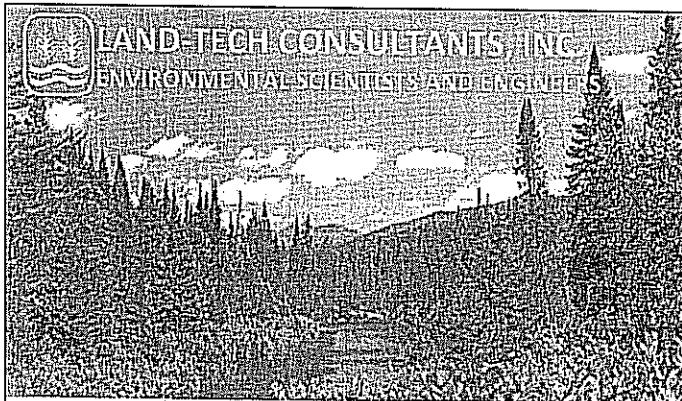
- October 22, 2011 - Sessions Woods Wildlife Mgmt
341 Milford Rd, Burlington, CT
- October 25, 2011 - Session Woods Wildlife Mgmt
341 Milford Rd, Burlington, CT
- November 3, 2011 - Tolland County Agricultural
Center, 24 Hyde Ave, Vernon, CT
- November 7, 2011 - Tolland County Agricultural
Center, 24 Hyde Ave, Vernon, CT

The time is 9:00 a.m. to 4:00 p.m. for all workshops. Plan to arrive between 8:30 a.m. and 9:00 a.m. to sign in and receive course materials. The workshops will be held rain or shine. Please dress appropriately for the weather; water resistant footwear suitable for hiking is strongly recommended. In the case of severe weather the afternoon field portion may be canceled.

In Burlington the field component will involve walking on a dirt/gravel road to access the soil pits. The gravel road is fairly smooth, but the terrain is hilly. The soil pits are located in the woods off of the gravel road and will involve walking on uneven forest ground.

In Vernon the field component will involve walking on grass and a dirt/gravel road. The terrain is flat. One soil pit is located in the woods off of the gravel road and will involve walking on uneven forest ground.

On-line registration is available at: <http://continuingstudies.uconn.edu/professional/dep/wetlands.html>.



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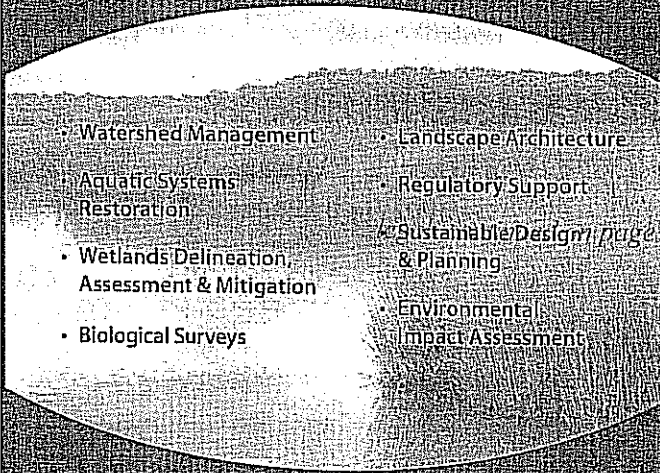


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Greenway Planning, Development and Stewardship - A Survey for Municipal Land Use Commissions and Land Trusts

Your answers to this simple survey will assist in answering the following questions and help us determine how we can best design our program to support your community greenway planning, construction, and stewardship efforts:

- How and why Connecticut municipalities are planning for greenways;
- To what extent planned greenway areas are protected;
- Do those planning for greenways look beyond town and regional boundaries during the planning process;
- Where do those planning for municipal greenways look for information concerning other greenway locations; and
- What resources are needed to help plan, construct, and steward Connecticut's community greenways

The Eastern CT Resource, Conservation & Development Program (RC&D) is partnering with CACIWC to increase the focus on the development and the stewardship of greenways as a method of connecting rural, suburban, and urban communities with particular attention to natural resource protection, riparian and wildlife corridor connectivity, economic development, preservation of scenic resources and community character, and connection of environmental justice populations to public services.

This first step, the survey, is to investigate potential open space and greenway linkages across municipal and regional boundaries, with a special focus on river corridors and watersheds.

Please use this link, <http://www.surveymonkey.com/s/LRC23V7>, to participate in this survey. If you have questions please contact Tom O'Dell at todell@snet.net. Thank you. 



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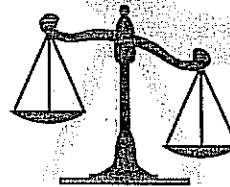
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— SESSION 1 —

(* Denotes Advanced Workshop)

A1. "Invasive Species: Diatoms: The Good, the Bad, and the Ugly!"

Professor Diba Khan-Bureau, Three Rivers Community College (TRCC)

Because diatoms are microscopic, many people do not know about their ecology or importance. Diatoms convert light, water and carbon dioxide into carbohydrates during photosynthesis. They are the base of the food chain in aquatic habitats and make up 40% of earth's primary productivity in regards to CO₂ fixation. They are essential for the cycling of nutrients in surface waters and other water bodies. As important as diatoms are, they can be problematic as well. The presentation will focus on the ecology and control of this nuisance diatom, *Didymosphenia geminata*, fondly called "rock snot."

*B1. "Emergency Authorization Procedures for Wetlands Agencies"

Janet Brooks, Attorney at Law, LLC

The wetlands act sets out very specific procedure to be followed for applications for regulated activities. But the law is silent when emergencies occur. Has your agency faced immediate septic system failures, road or bridge repair work that can't wait for the agency to receive an application and wait another month for action? This workshop will focus on practical solutions. Attorney Brooks will offer the various approaches employed by a number of agencies. Come add to the discussion your agency's problems and ways of resolving them.

*C1. "The Importance of Maintaining Your BMP"

Lawrence H. Galkowski, PE; Rinker Materials

The use of Best Management Practices (BMP) is an essential component of the design and maintenance of systems designed to treat stormwater run-off before it is discharged to the wetlands, brooks, and rivers of our state. The 2004 Connecticut Stormwater Quality Manual, developed by the Connecticut DEEP, has been considered an important guide for designing effective stormwater systems. Of equal importance is the guidance it provides on maintaining more than 25 various types of BMP. This presentation will review important methods for correctly designing and maintaining various BMP systems.

D1. "Low Impact Development in Planning & Permitting"

MaryAnn Nusom Haverstock, Connecticut DEEP Watershed Management Program

Low Impact Development (LID)-style best management practices (BMP), such as vegetative filter strips, pocket sand filters, and infiltration systems, have been available for the control of stormwater for several decades. The LID approach to site design is a significant change in site planning and stormwater management philosophy. LID emphasizes working within the constraints of landscapes to prevent stormwater generation, rather than shunting away stormwater and treating it. This workshop will review current guidance as an appendix for both the DEEP Erosion & Sediment Control guidelines and the CT Stormwater Quality Manual.

— SESSION 2 —

(* Denotes Advanced Workshop)

*A2. "Land Trust & Conservation Commission Collaboration: Partnerships for Land Preservation & Stewardship"

Amy B. Paterson, Esq., Executive Director, Connecticut Land Conservation Council (CLCC)

The preservation and stewardship of open space is a challenging task, particularly in this economic climate. In Connecticut, while land trusts and conservation commissions work independently to carry out this responsibility, most accomplishments in conservation are a result of forging ongoing, positive relationships amongst landowners, land trusts, governmental entities, and elected officials. This workshop will discuss the importance of collaboration; explore opportunities for collaboration; evaluate ways to overcome potential roadblocks and hear collaboration success stories.

*B2. "Wetlands Law Update and Q&A for 2011"

Janet Brooks, Attorney at Law, LLC;
David Wrinn, CT Attorney General's Office;
Mark Branse, Branse, Willis & Knapp, LLC

This trio of wetlands attorneys has been brought back by popular demand to keep you current with the latest state Supreme Court and Appellate Court cases and legislative amendments to the wetlands act. You'll hear about the August decision of the Supreme Court on whether farm roads are exempt, as well as be brought up to date on the new exemption to the wetlands act and the automatic extended permit length for certain wetlands permits. This work shop will also include a 30-min question-and-answer session that you have asked that we bring back again each year!

*C2. "BMP in Stormwater Management: Rain Gardens & Other Advanced Techniques"

Michael Dietz, CT NEMO Program Director, UCONN, Center for Land Use Education and Research (CLEAR)

A rain garden is a depressed area in the landscape designed to collect and infiltrate stormwater runoff. Rain gardens also can be beautiful additions to the home landscape. This workshop will provide an overview of the functions and features of rain gardens and other best management practice (BMP) approaches to stormwater treatment. Information on the use of other advanced BMP systems will be presented including bioretentive systems, pervious pavements that can be recommended as an alternative to more traditional systems. Performance data, advantages/disadvantages for different applications, and some cost information will be discussed.

*D2. "Low Impact Development, A More Sustainable Approach to Creating Workplaces and Homes"

Scott W. Horsley, President, Horsley Witten Group, Inc.

Low-impact development (LID) is an alternative approach to site planning, design and building that minimizes impacts to the land landscape and preserves the natural hydrologic cycle. This approach results in reduced impervious surfaces, smaller lawns and more natural landscaping, lower construction costs, lower maintenance, and a more attractive landscape. Other LID design techniques include green roofs, rain barrels, rain gardens, grassed swales, and stormwater infiltration systems. This workshop will emphasize how, through the use of these techniques, natural drainage pathways are conserved, open space is preserved, and the overall impact from development is reduced.

—SESSION 3—

(* Denotes Advanced Workshop)

A3. "Stalking Foxes and Wandering Cats: Current Trends among Connecticut Mammalian Predator Populations"
Andrew LaBonte, Wildlife Biologist, CT DEEP Wildlife Division
Connecticut's diverse mammalian predators range in size from the diminutive Least and Short-tailed Shrews, to the little known Short- and Long-tailed Weasels, to our increasingly-seen Black Bear. This workshop will differentiate between Gray and Red Fox species; review the latest information on our elusive population of Bobcat; present current theories on the evolution of the Eastern Coyote population, as well as the amazing story of how a mountain lion from South Dakota found his way to Connecticut! This workshop will also provide information to assist commissions and staff in responding to public inquiries and offer suggestions on supporting state and regional efforts to track and study these species.

***B3. "Development of Low Impact Development Regulations with Your Local P&Z"**

Attorney Mark K. Branse, Branse, Willis & Knapp, LLC

This workshop will discuss how municipal wetlands agencies can enhance their ability to minimize the environmental impact made by new development in their towns through the adoption of low impact development (LID) regulations in conjunction with their town's planning & zoning commissions. Other joint wetlands, conservation, and P&Z commission efforts to promote the long-term protection of important habitats within their town will also be discussed.

***C3. "Sustainable Site Design"**

Jane Didona, Didona Associates; Stuart Sachs, PRE/view Landscape Architects; & Thomas Tavella, Fuss & O'Neill, Inc.

The mission of landscape architecture has always been to balance the human experience with the health of our natural systems. This panel will explore sustainable site design concepts, and the American Society of Landscape Architects "Sustainable Sites Initiative", a new system of standards to guide builders to reduce impacts on the landscape component of their developments. This panel will explore how sustainable design is applicable to site and regional planning programs. The principals of the US Green Building Council and the Leadership in Energy and Environmental Design process will be explored; as well as stormwater management techniques that create preferred landscapes benefiting the community.

***D3. "Sustainability in Town Planning: Long-term vs. Short-term thinking"**

John D. Calandrelli, CT Sierra Club Program Director

What constitutes a "sustainable community?" What is sustainability? The factors that go into a sustainable community and examples of these factors will be discussed in this workshop and Q/A session. If municipal staff and commissioners began to use a definition of sustainability as meeting our needs while allowing the opportunity for future generations to meet theirs, could this alter the endless cycle of expanding growth and diminishing open space? What are the environmental and economic factors involved? What would sustainability mean for our parks, forests, farms, wetlands, town centers, jobs, and budgets? Join the discussion and consider a new approach for Connecticut cities and towns.

**Nominations for CACIWC's
2011 Annual Recognition Awards**

Presentations will be made at Annual
Meeting & Environmental Conference

Saturday, November 12, 2011

There is still time to submit your nominations for a CACIWC annual award. Nominations will be accepted until **October 17, 2011** in six award categories:

1. Wetlands Commission of the Year
2. Conservation Commission of the Year
3. Wetlands Commissioner of the Year
4. Conservation Commissioner of the Year
5. Commission Agent or Staff of the Year
6. Lifetime Achievement Award

Please see www.CACIWC.org for the nomination form and additional information. Completed nomination forms should be emailed to the CACIWC Annual Award Nominations Committee at: AnnualMtg@CACIWC.org

SCHEDULE FOR THE DAY

Registration & Breakfast	8:30 – 9:00 am
Welcome & Business Mtg.	9:00 – 9:30 am
Session 1 Workshops	9:30 – 10:30 am
Break 1	10:30 – 10:45 am
Session 2 Workshops	10:45 am – 12:00 pm
Lunch & Keynote speaker	12:00 – 1:30 pm
Awards	1:30 – 1:45 pm
Break 2	1:45 – 2:00 pm
Session 3 Workshops	2:00 – 3:15 pm
Final display viewing	3:15 – 4:00 pm

Displays will be on view
from 8:30 am – 4:00 pm.

2011 Re-issuance of the Department of the Army Programmatic General Permit for the State of Connecticut — Inland Wetlands Activities

by Cori Rose, Senior Project Manager, U.S. Army Corps of Engineers
New England District Regulatory Division

On July 15, 2011 the U.S. Army Corps of Engineers (Corps) reissued the General Permit (GP) for the State of Connecticut. The intent of the GP is to streamline reviews and reduce the duplication of regulation between State and Federal entities.

In general, a GP is an umbrella permit for categories of activities, or for a particular state program which normally includes an abbreviated review process, and/or conditional authorization for a range of activities that are similar in nature and anticipated to cause no more than minimal environmental impact, individually and cumulatively.

How does it work?

Although the Corps in New England revoked the national form of Nationwide Permits and has used GPs for implementation of the Clean Water Act and the Rivers and Harbors Act since the 1980's, many people are still confused by how the process works. There is no exemption from obtaining a Clean Water Act permit for work less than 5,000 square feet. ALL activities in wetlands and waters, regardless of their acreage of impact, are required to receive a permit from the Corps.

The GP that is issued every five years is the permit, or vehicle if you will, that authorizes a particular activity. A submittal to the Corps is evaluated for its eligibility, based on a permit's specific criteria and general terms and conditions.

Following evaluation of a particular project proposal, the Corps does not issue the applicant a permit. Rather, it issues a letter of authorization stating that the proposed work complies with the previously-issued five year permit.

Since the issuance of the GP is a federal action, the Corps must document compliance with the National

Environmental Policy Act (NEPA). The Corps is therefore required to assess:

- the reasonably foreseeable effects of the individual activities approved within each five year permit,
- the anticipated cumulative effects of those activities,
- and the potential future losses of waters of the United States that are estimated to occur until the date of the permit's expiration.

"...authorization by the Corps does supersede any other agencies' jurisdiction and does not take the place of all other permits required by law."

The authorizations will expire for activities that have not started before the end date of the particular permit under which they were originally verified. Consequently, extensions cannot be granted for any work that has not commenced before expiration of the permit.

Changes to the CT General Permit

In many ways changes to the GP for 2011 have been minimal, but they exist nonetheless. First, the permit summary and Appendix 1, (which defines the categories of work and their related criteria for inland activities in the State of Connecticut (Section 1/1A)) has received a facelift. It has been separated physically from the coastal activities and work regulated by the CT Department of Energy & Environmental Protection's (CT DEEP) Office of Long Island Sound Program.

The purpose of this change is to more succinctly explain the eligibility requirements for inland activities under Category 1 and Category 2. Activities that are not eligible for consideration under either Category 1 or 2 have been given their own pages (3 of 10 and 6 of 10 respectively) within the activity matrix. The inland matrix itself has been simplified for viewing but

permit, continued on page 11

permit, continued from page 10

it still continues to break down the work types for both Category 1 and 2 as such:

- Category 1A or 2A – New fill and/or fill associated with excavation
- Category 1B or 2B – Streambank Stabilization
- Category 1C or 2C – Repair and maintenance of existing authorized or grandfathered fill

Also, similar to the 2006 GP, some activities continue to have very specific eligibility criteria in order to be covered under the GP, such as utility right-of-ways, stream crossings, and streambank stabilization.

By far the greatest change to the 2011 re-issuance is the requirement for all applicants to fill out and return a Certification Form for ALL Category 1 activities. This form is designed to allow the Corps to better meet the National Environmental Policy Act environmental assessment requirements discussed above.

The form also does double duty as a permittee self-certification statement that the work that is to be undertaken will meet the terms and conditions of

the GP. As part of this process Corps staff will be inspecting a subset of the projects as part of our 5-year cumulative impact analysis to confirm that the work complied with the requirements of the permit.

Another format change includes separation of the main body of the GP, which contains the General Conditions (GC) for the permit, from the inland matrix. The General Conditions, in addition to the matrix criteria, have been updated in the discussion that follows:

1) Floodways and Floodplains - Work that otherwise meets the criteria of the GP within a Federal Emergency Management Act (FEMA) designated floodway may now be eligible under Category 1 provided a Flood Management Certification is obtained from the State of Connecticut (if one is required) or CT DEEP has reviewed and issued other permits such as those under the Dam Safety, Stream Channel Encroachment or Diversion statutes. Similarly, projects with fill within a floodplain may also be eligible under Category 1 upon receipt of one of the above

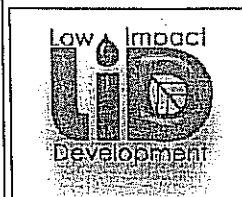
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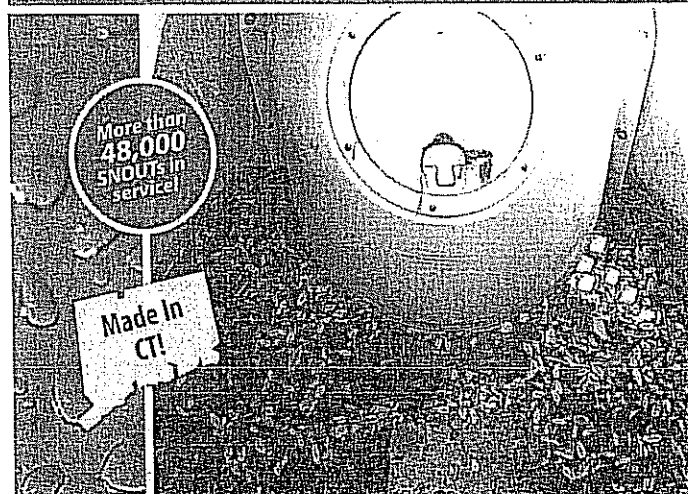
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permits and demonstration that there will be no adverse effect to hydraulic characteristics.

2) Vernal Pools – If discharge of fill in wetlands or waters will occur for a project (regardless of the acreage of fill impact) and any part of the development will be located within 100 feet of a known or suspected vernal pool, the work must be reviewed by the Corps and coordinated with the state and federal agencies. In addition, the secondary impacts to vernal pools are called out under GC 3 such that site clearing, grading or construction activities in upland habitat within the 750 foot circumference of a vernal pool must be calculated as secondary impact for the purposes of determining which GP category a project may be considered for. Of course, this requirement is only applicable if any portion of a project is within Corps jurisdiction with filling, of any amount, in wetlands or waters.

Example: Construction of a road crossing with 430 square feet of fill in wetlands for access to an upland subdivision, and approximately 4 acres of tree clearing for construction within a 750-foot radius of a vernal pool will have 430 feet of direct impact and 4 acres of secondary impact and consequently will need to be submitted to the Corps for review under Category 2 of the GP.

3) Swamp Mats – Swamp mats no longer count towards total impact calculation for a project that will be reviewed under Category 2. What this means is if the permanent impact of a project is below the one acre threshold of Category 2 and temporary mats are to be used with resulting additional impact, the footprint of swamp mats

will not put an otherwise GP eligible project into Individual Permit review. However, it is important to note that this is not the case for work under Category 1. Under Category 1 the footprint of temporary mats will still count towards total project impact acreage for determining which GP category to use.

Example: Discharge within 1400 square feet of wetlands for repair of a water main and placement of 4100 square feet of swamp mats (temporary fill) over wetland for access to the site for a total of 5500 square feet will need to be reviewed for eligibility under Category 2 of the GP.

4) Dam Repair – This activity is now included under Category 1 provided there is no change in the permanent water surface elevation of the impoundment and no dredging in the impoundment other than that needed to access the repair site. In this case the secondary impact of dewatering to undertake the repair will not count towards the 5,000 square foot limit.

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Example: Excavation and discharge below ordinary high water over 3400 square feet for replacement of a wing wall and low-level outlet with associated dewatering of a 1.2 acre pond would be eligible under Category 1 of the GP provided it meets all other GP terms and conditions.

5) Wetland and Stream Restoration – These activities are potentially eligible for Category 2 of the GP, regardless of acreage, provided that the Corps, in concurrence with the state and other federal agencies determines that the impact of the work will be minimal.

6) GC 5 Single & Complete Projects – This condition has been updated to provide additional clarification as to what a single and complete project is. To be applicable for the GP, all phases of a planned multi-phase project must be considered together. Phases that are dependent upon other or prior phases do not have independent utility and must be considered in unison.

7) GC 6 Permit on Site – This condition clarifies that the authorization letter and a copy of the entire GP

(permit vehicle including all General Conditions) must be included in bid documents/project specification or added as an addendum to such if the authorization is issued following receipt of bids.

8) GC 15 Avoidance, Minimization & Mitigation

– This condition has been updated to reflect New England District mitigation ratios, compliance with the April 10, 2008 National Compensatory Wetland Mitigation Rule and consideration of Low Impact Development practices to manage stormwater runoff at development sites.


9) GC 22 Waterway Crossings – Projects using slip lining, plastic pipes and High Density Polyethylene Pipes are not authorized under Category 1, either as new work or maintenance activities.

10) GC 26 Protection of Vernal Pools – All Category 2 projects will be required to conduct a VP survey of the entire site (not just the disturbance area) and the survey must be submitted to the Corps along with the party that conducted the survey and the survey date.

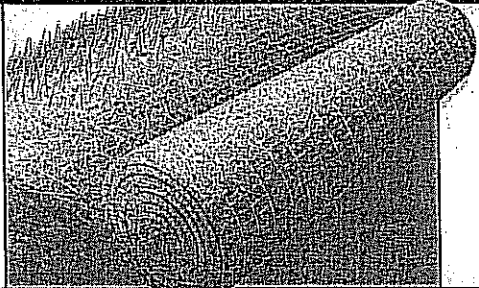
11) GC 27 Invasive Species – All Category 2 projects will be required to provide an Invasive Species Control Plan.

12) GC 28 Inspections – As discussed above submittals are now required for Category 1 inland activities. For Category 1 activities the REQUIRED submittals include the Category 1 Certification Form (Appendix 1A) and the Compliance Certification Form (Appendix 5). For Category 2 activities both the Compliance Certification Form and a Work-Start Notification Form will be REQUIRED. Failure to submit these forms is considered non-compliance of the permit.

Corps Permit, Local Permit or Both?


Finally, one of the more common questions we are asked about a Corps Permit is if it takes the place of the need to obtain a local permit. Not a change to the GP but worth pointing out nonetheless, GC 1 of the GP addresses this question. It states that an authorization by the Corps does supersede any other agencies' jurisdiction and does not take the place of all other permits required by law. Consequently, don't ever let anyone tell you otherwise. 

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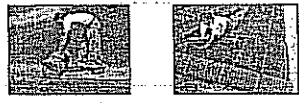


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keynote, continued from page 1

(DEP). He became Commissioner of DEEP when that agency came into being in July of that year. This new agency is focused on better integrating energy and environmental policies and helping Connecticut to build a sustainable and prosperous 21st century economy.

Prior to becoming Commissioner, Esty was the Hillhouse Professor of Environmental Law and Policy at Yale University. He also served as the Director of the Yale Center for Environmental Law and Policy and the Center for Business & Environment at Yale.

Commissioner Esty, who holds a BA from Harvard, an MA from Oxford, and a law degree from Yale, is the author or editor of numerous books and articles on environmental policy issues and the relationships between environment and corporate strategy.

Commissioner Esty is a native of Connecticut. His career included serving in a variety of senior positions for the US Environmental Protection Agency as well as practicing law in Washington, DC. and serving as an advisor on the 2008 Obama Presidential campaign and transition team.



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Professional Wetland Scientist (PWS)
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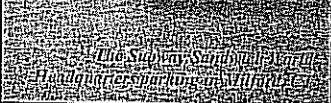
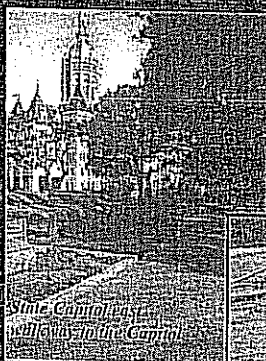
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June. A copy of this form and additional information can also be found on our website: www.caciwc.org. Would you or your company like to provide additional support to CACIWC? The website also provides a description of additional individual and business membership categories. Please consider making an additional contribution to support CACIWC education and outreach efforts!

6. We continue to hear from individuals who are interested in filling one of our current **board vacancies** following our announcement in the last two issues of *The Habitat*. We very much appreciate the response. However, several vacancies still remain. A full board strengthens our ability to represent the needs and concerns of our member towns and commissions. The CACIWC bylaws specify that any past or present member of Connecticut conservation or inland wetlands commissions or their agent is eligible to serve. Please submit your name to be considered for nomination at: board@caciwc.org. Let us know if you currently do not have time to serve on the board, but wish to volunteer in support of our many administrative, education, and outreach activities.

Thank you again for your ongoing interest in CACTWC!



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ALERT!

Report Sightings of Invasive Mile-A Minute Vine

Mile-a-minute vine is a highly invasive annual plant from eastern Asia that can quickly cover, outcompete and replace native vegetation, damaging habitat for native plants and animals. Early detection and rapid response are essential for control.

Mile-a-minute was first found in Connecticut in Fairfield County in 1997. Since then, it has spread to 20 Connecticut towns, as far east as Stonington and as far north as Simsbury. Mile-a-minute spreads by seed and quickly grows into dense stands. Seeds are spread by wind and water.

Visit www.hort.uconn.edu/mam for additional identification tips, photographs and control information. You can also contact Logan Senack (logan.senack@uconn.edu) or Donna Ellis (860-486-6448; donna.ellis@uconn.edu) for additional information. To report a suspected mile-a-minute invasion, visit the above website or contact Donna Ellis at UConn at 860-486-6448.



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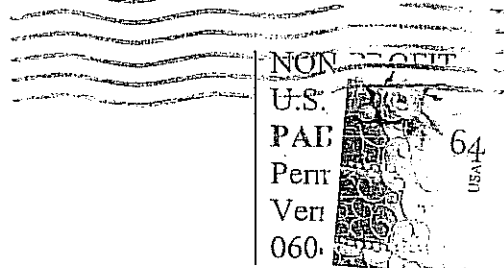
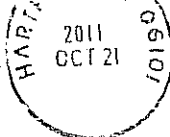
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Help Needed To Continue State Investment In Open Space

If your town has received state grant monies for an open space project within the last 10 years or so, chances are that the funding is from the CT Department of Energy and Environmental Protection's (DEEP) Open Space and Watershed Land Acquisition Program (OSWLA). Supported by state bonding and the 2005 Community Investment Act (CIA), the OSWLA program is the state's main source of funding for towns seeking to conserve land. However, due to budget constraints, the state did not offer a grant round in 2011 which has made it difficult, if not impossible, for towns to pursue open space acquisition projects.

This year's state bond package included authorization to provide \$5 million in each of the next two fiscal years for open space funding, coupled with CIA funds available for the open space program. The Connecticut Land Conservation Council (CLCC) is making a concerted effort to enlist the support of municipal officials in advocating for continued state investment in open space by offering a DEEP OSWLA grant round this year. If you want to help with this effort, or you know an official in your town who would be interested in talking with us, please contact Amy B. Paterson, CLCC Executive Director at (860) 685-0785 or abpaterson@ctconservation.org.

Editor's Note: CACIWC is a founding member of the Connecticut Land Conservation Council (CLCC) and continues to support CLCC activities, including advocacy and education programs. CACIWC provides support as a member of the organization and through representation on its Steering Committee.

TOWN OF CHAPLIN

CONNECTICUT 06235

INCORPORATED 1822



October 28, 2011

Inter-municipal Notification of Application for Zoning Regulation Amendment

Dear Adjacent Municipality;

In accordance with the Requirements of Section 8-7d(f) of the Connecticut General Statutes, you are hereby notified that the Chaplin Planning & Zoning Commission has proposed an application for Amendment to establish a new overlay zoning district entitled "Natchaug River Watershed Overlay Zone". This amendment will involve changes to Sections 2.2 "Definitions" and establishment of Section 5.10 "Natchaug River Watershed Overlay Zone" with applicable sub-sections 5.10.A, 5.10.B, 5.10.C, 5.10.D, 5.10.E, 5.10.F, 5.10.G, and 5.10.F, as more particularly described in the attached proposal.

Because the proposed amendment(s) will affect property adjoining all neighboring municipalities, you are entitled to receipt of this notice. A copy of the proposal as prepared by the Commission is attached hereto for your review.

The Public Hearing for this proposal is scheduled to commence at 7:00 PM on Thursday December 8, 2011 at the Chaplin Town Hall, 495 Phoenixville Road, Chaplin, CT. All interested parties are invited to attend and be heard, and written correspondence received as of the hearing will be included in the record.

Thank you.

Sincerely,

Demian A. Sorrentino, AICP
Chaplin Planning & Zoning Agent
for the
Chaplin Planning & Zoning Commission

CERTIFIED MAIL; RETURN RECEIPT REQUESTED

PAGE
BREAK

**TOWN OF CHAPLIN PLANNING & ZONING COMMISSION
NRWOZ - COMMISSION'S DRAFT FOR PUBLIC HEARING 12-8-11**

2.2 Definitions (Revised xx/xx/xx)

Accessory Building or Structure. A supplemental building or structure, the use of which is clearly and customarily incidental or subordinate to the principal building and use thereof, located on the same lot with such principal building or use. An accessory building attached to a principal building shall be considered to be part of the principal building in applying the Bulk Regulations to such building.

Accessory Use. A land use located on the same lot which is clearly and customarily incidental and subordinate to that of the principal use for which a premises is used, designed, or intended to be used.

2.2 Definitions (added xx/xx/xx)

Agriculture: Agricultural and farming activities as defined by Connecticut State Statute 1-1(q)

Buffer, Riparian: The vegetated area of trees, shrubs and perennials adjacent to the Natchaug River and Natchaug River Tributaries, as described in Section 5.10.A of these Regulations, which existed on the effective date of Section 5.10 of these Regulations.

Natchaug River Tributaries: Inland Wetlands and Watercourses which contribute surface water flow to the Natchaug River. Tributaries may include Inland Wetlands and/or Watercourses as defined in Section 22a-38 of the Connecticut General Statutes, as amended that flow over the surface of the ground to the Natchaug River.

Non-point Source Pollution: Stormwater runoff carrying human-made and/or natural pollutants (nutrients, sediment and pathogens) that flow into watercourses; it is sometimes called runoff pollution, and is distinguished from "Point Source Pollution" which originates from a culvert, pipe, floor drain, curtain drain, swale, or other definable point of discharge.

Non-Commercial Thinning : Physical removal of fallen dead, standing dead and/or thinning or pruning of live trees by the owner of the property, intended for personal use or consumption and not intended for sale or export., nor to provide expanded views or vistas, nor to otherwise remove stands or groups of trees within a definable area. Non-commercial thinning includes only the removal of isolated, individual trees or trimming of tree branches for safety, personal supply of firewood, maintenance of tree health, or removal of invasive species.

Principal Building or Structure. That single building or structure or inter-related group of buildings or structures, in which is conducted the principal use of the lot on which the building or structure is situated.

Principal Use. The primary purpose or function for which a premises is used, designed, or intended to be used.

Structure: Anything which is constructed or erected and the use of which requires more or less permanent location on ground or water areas or attachment to something having permanent location on ground or water areas, not, however, including wheels; an edifice or a building of any kind; any production or piece of work, artificially built up or composed of parts and joined together in some definite manner, including signs, vending machines, fences or walls, a wharf or dock, an above-ground tank, or a detached solar panel or satellite dish. .

Watercourse: Rivers, streams, brooks, waterways, lakes, ponds, marshes, swamps, bogs and all other bodies of water, natural or artificial, vernal or intermittent, public or private.

5.10 Natchaug River Watershed Overlay Zone (entire section added xx/xx/xx)

The intent of this overlay zone is to protect the Natchaug River's natural resources by controlling potentially detrimental effects on its watershed from development activities, such as those resulting from non-point source pollution, erosion and increased stormwater flows and to prevent damage to the critical riparian buffer along the Natchaug River and the watercourses that flow into it. A Riparian Buffer is included that protects water quality by reducing erosion, trapping pollutants, increasing stormwater infiltration and providing a tree canopy that maintains the water temperature.

The Natchaug River Watershed Overlay Zone lies within the Natchaug River Basin. Chaplin is one of eight towns in the basin, all of which signed a conservation compact recognizing the regional importance of preserving the health of the entire basin.

Chaplin's 2010 Plan of Conservation and Development (POCD) identifies the riparian and wetland features of the Natchaug River Watershed as a key component of the largely intact watersheds and natural character of Chaplin. The POCD recommended a Natchaug River Watershed Overlay Zone be adopted to protect water quality of the Watershed from the threat of increasing water temperature, siltation and non-point pollution caused by development or land use activities.

The purpose of this Natchaug River Watershed Overlay Zone is to regulate uses of land within established proximity to the Natchaug River and its tributaries, and to promote maintenance of a continuous riparian buffer of native forest and shrubs along the edges(s) of inland wetlands and watercourses within the Natchaug River Watershed. The most effective riparian buffers are natural ones that have a mix of trees, shrubs and herbaceous plants native to the region.

This regulation does not replace any obligation of the applicant to have a determination made by the Chaplin Inland Wetlands and Watercourses Commission or any other regulatory agency having jurisdiction, as to whether additional review(s) and/or permits are required.

5.10.A. Area of the Natchaug River Watershed Overlay Zone

This Natchaug River Watershed Overlay Zone shall consist of the Natchaug River and the Natchaug River Tributaries within Chaplin that contribute surface water flow to the Natchaug River, including the following:

The area landward from the ordinary high water mark of the Natchaug River for a horizontal distance of one hundred feet (100'); and

The area landward from the Natchaug River Tributary edge for a horizontal distance of fifty feet (50').

The Natchaug River and Natchaug River Tributary edge is the ordinary high water mark where the presence and action of water are so common as to produce soil and/or vegetation types which are distinct from that of the abutting upland. Where there is a question or dispute over the zone boundary, the Commission may require an applicant to have the ordinary high water mark determined by a certified soil scientist, and if necessary the boundary shall be shown on a site plan prepared per Section 8.7 or 9.3 or of these Regulations, as applicable.

The inland wetland boundary or inland wetland edge is the demarcation line between Connecticut wetland soils and adjacent upland soils. This line may only be determined by a certified soil scientist.

The proposed overlay zone does not apply to wetlands, watercourses or vernal pools that are not connected by surface water flow to the Natchaug River.

5.10.B. Zoning District Overlap

The Natchaug River Watershed Overlay Zone overlaps other zoning districts and federal, state, or municipally regulated areas and in all cases the more restrictive regulation will take precedence.

5.10.C. Permitted Uses

The Commission strongly recommends observance of fifty (50) foot undisturbed vegetated riparian buffer along the Natchaug River and a twenty-five (25) foot undisturbed vegetated riparian buffer along tributary watercourses and/or tributary inland wetlands, wherever feasible. This is to help preserve the health of the watershed, and therefore the listed activities will be narrowly construed to effectuate this purpose.

The following uses are permitted as-of-right within the Natchaug River Watershed Overlay Zone and do not require separate approval from the Chaplin Planning & Zoning Commission nor its Agent other than approval(s) required pursuant to other applicable sections of the Chaplin Zoning Regulations:

Existing Structures or continuing activities that were legally in existence before the effective date of this regulation.

The building of new Structures, modification of existing Structures, or commencement of activities that were granted all applicable permits before the effective date of this regulation.

The construction of additions to residential Structures that were legally in existence before the effective date of this regulation, provided such additions are not located within fifty (50') feet of the Natchaug River nor within twenty-five (25') of any Natchaug River Tributary. See Section 5.10.E below.

The construction of accessory Structures to principal residential structures that were legally in existence before the effective date of this regulation, provided such additions are not located within fifty (50') feet of the Natchaug River nor within twenty-five (25') of any Natchaug River Tributary. See Section 5.10.E below.

Agricultural uses that follow generally acceptable agricultural practices as defined under: the Connecticut Right to Farm Law (CGS Sec. 19a-341); the Connecticut Public Health Code; Water Pollution Control Regulations (CGS Sec. 22a-430); 2007 Guide to Best Management Practices for Water Quality While Harvesting Forest Products; and current technical guidance provided by USDA Natural Resources Conservation Service, UCONN Cooperative Extension, CT Department of Environmental Protection and the CT Department of Agriculture.

Although agriculture is permitted by right, the Commission strongly recommends that structures are sited outside of the overlay zone where ever possible to help protect the health of the watershed.

State and municipal activity necessary for public safety or protection of property.

Septic system repair as directed by the local health official / town sanitarian; septic system maintenance such as pumping and inspections is encouraged.

Fish and wildlife conservation activities that does not require removal of native vegetation or alteration of watercourses beds or banks.

Stepping stones or other non-constructed method of providing a watercourse foot-crossing that does not require removal of native vegetation or alteration of watercourses beds or banks.

A family campsite that requires only minimal removal of native vegetation and no alteration of watercourses beds or banks, provided that no impervious surfaces are created that are greater

than 120 square feet in area, individually or cumulatively. Family campsites requiring more than 120 square feet of impervious surface shall require Site Plan Review in accordance with Section 5.10.E below.

Man-made ponds as approved by the Chaplin Inland Wetlands & Watercourses Commission.

Stormwater management and stormwater treatment improvements constructed in accordance with 2004 CT DEP Stormwater Quality Manual, as amended.

Conservation activities, non-commercial thinning.

5.10.D. Uses Requiring Administrative Approval

The Commission strongly recommends and may require observance of fifty (50) foot undisturbed vegetated riparian buffer along the Natchaug River and a twenty-five (25) foot undisturbed vegetated riparian buffer along tributary watercourses and/or tributary inland wetlands, wherever feasible. This is to help preserve the health of the watershed, and therefore the listed activities will be narrowly construed to effectuate this purpose.

The Commission's appointed Agent may issue a Zoning Permit to allow any of the following uses within the Natchaug River Watershed Overlay Zone per the requirements set out in Article IX of these Regulations

The clearing of one footpath per property, 5 feet wide or less. In order to prevent erosion and the creation of a channel of surface runoff, paths are permitted (a) more or less parallel to the watercourse, and/or (b) to meander in a non-linear manner toward the watercourse. It is recommended that new footpaths do not create a straight line of sight from the outer boundary of the Natchaug River Watershed Overlay Zone to the watercourse. The property owner must use erosion control measures as specified by the 2002 Connecticut Guidelines for Erosion and Sediment Control and/or the 2004 CT DEP Stormwater Quality Manual, as amended, to prevent erosion.

5.10.E. Uses Requiring Site Plan Review

The Commission strongly recommends and may require observance of fifty (50) foot undisturbed vegetated riparian buffer along the Natchaug River and a twenty-five (25) foot undisturbed vegetated riparian buffer along tributary watercourses and/or tributary inland wetlands, wherever feasible. This is to help preserve the health of the watershed, and therefore the listed activities will be narrowly construed to effectuate this purpose.

The Commission may issue a Permit to allow any of the following uses within the Natchaug River Watershed Overlay Zone per the requirements set out in Section 8.7 of these Regulations. In considering the proposed use the Commission shall be guided by the factors outlined in Section 5.10.G of these Regulations.

Structures such as stairs, footbridges, docks and boathouses.

The construction of additions to residential Structures that were legally in existence before the effective date of this regulation where such residential Structures or the proposed additions are located within fifty (50') feet of the Natchaug River or within twenty-five (25') of any Natchaug River Tributary.

The construction of accessory Structures to principal residential structures that were legally in existence before the effective date of this regulation where the principal residential Structures or the proposed accessory Structure are located within fifty (50') feet of the Natchaug River or within twenty-five (25') of any Natchaug River Tributary.

Crossings of wetlands or watercourses for the purpose providing vehicular, pedestrian, or agricultural access from an existing street or other traveled way to property located on the opposite side of such wetland or watercourse; provided, however, that such activity has obtained the prior approval of the Chaplin Inland Wetlands and Watercourses Commission as a prerequisite to the filing of an application under this section.

Construction, expansion, or alteration of a structure for non-residential use that is in compliance with all other zoning regulations, provided the uniqueness of the site prohibits other locations for the construction, expansion or alteration. To minimize impact to the riparian buffer no construction or expansion shall be permitted within Riparian Buffer as defined in 5.10.A.

For any of the preceding, the permit application must demonstrate that the construction and installation of the proposed structure does not contribute to significant flow alteration, channel modification, or any other alteration of the watercourse. All such structures may require State DEP approval.

Removal of vegetation to create a filtered view of a watercourse by selective pruning or removal of trees, shrubs and other vegetation to allow for reasonable visual access to the watercourse while maintaining, to the greatest extent possible, a natural screen of man-made structures or objects as viewed from the river, and otherwise furthering the purposes of the Natchaug River Watershed Overlay Zone.

5.01.F Special Permit Uses

None.

5.10.G. Prohibited Uses

Unless specifically permitted by Section 5.10.C or in association with an approved zoning permit or site plan approval per sections 5.10.D or 5.10.E, the following are prohibited uses within the Natchaug River Watershed Overlay Zone:

- Construction of a principal building or structure after the effective date of this regulation.

- Filling, removal, or re-grading of earth.

- Removal of live vegetation (trees, shrubs and/or perennials), except as provided in the preceding subsections of this Section 5.10.

- Planting of invasive species as listed by Connecticut Public Act No. 03-136 or as amended.

- Disposal of solid and liquid wastes in landfills or dumps.

- Septage lagoons and the disposal or spreading of septage onto the ground, except as provided in Section 5.10.C above.

- Disposal of toxic substances or hazardous waste materials, storage of road salt, storage of gasoline or fuel oils.

5.10.H. Standards for Review of Applications

The Commission shall consider the following standards when reviewing applications within the Natchaug River Watershed Overlay Zone:

- The compatibility of the activity with the purposes of the Natchaug River Watershed Overlay

Zone, the Plan of Conservation & Development, and the health, safety and welfare of the public.

Whether modifications to the proposal could better achieve the purpose of the Natchaug River Watershed Overlay Zone.

That approval of the proposal would not cause conflict with other applicable municipal, state or federal regulations.

Where strict application of the Natchaug River Watershed Overlay Zone regulations would deny the applicant reasonable use of the property, or if adherence to the requirements of these regulations would render the property unusable or unsuitable for development, in which case(s) the Commission shall have the authority to waive the requirements of this Section at its discretion.

The Commission or its designated Agent may grant any approval under this Section 5.10 subject to such conditions and modifications as will fulfill the purposes of this Section.